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ABSTRACT

This report presents the results of a 50-state survey of the laws defining the reporting, disclosure and investment standards that govern public employee retirement systems. In addition to reviewing these laws, the report describes the legislative and executive oversight of public retirement systems mandated by state law. The data for the report was collected by questionnaires sent to state plan administrators. The questionnaire results were supplemented by legal research to identify or verify state code citations and by follow-up telephone calls to clarify local practices. (JD)

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# Public Pension Plans: The State Regulatory Framework

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for

THE NATIONAL COUNCIL ON TEACHER RETIREMENT

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# PUBLIC PENSION PLANS: THE STATE REGULATORY FRAMEWORK

This report, prepared by the National Council on Teacher Retirement (NCTR),[1] presents the results of a 50-state survey of the laws defining the reporting, disclosure and investment standards that govern public employee retirement systems. In addition to reviewing these laws, the report describes the legislative and executive oversight of public retirement systems mandated by state law.

The data for the report was collected by questionnaires sent to state plan administrators. The questionnaire results were supplemented by legal research to identify or verify state code citations and by follow-up telephone calls to clarify local practices.

Although the organizational focus of NCTR, the report's sponsor, is on teacher retirement systems, the research and resultant conclusions are relevant to state employee retirement systems generally. Roughly 24 of the states surveyed have a single consolidated retirement system for all state employees. And, in the remaining 26 states, where teachers and education personnel have separate retirement systems, the standard defining the reporting, disclosure and investment standards for these systems are essentially the same as the standards that apply to other state employee retirement systems. In 22 states (some with consolidated plans, others not), a single agency has been designated to perform the investment function for all retirement systems.

To put the conclusions of the report in context, it is necessary to look first at the general condition of state retirement systems. It is undisputed that these systems generally perform at a higher level than do their private or federal government counterparts. More public employees participate in retirement plans than do private employees (90% as compared to approximately 74% of the ERISA-relevant work force). State retirement systems offer more diverse benefits and higher benefit levels than do private plans. And, recent U.S. Census analyses show that public plans are better funded than either private pension plans or federal retirement plans. Over the past five years, public plans "have increased their assets and strengthened their funding . . . even though the beneficiary population has risen sharply."[2] Finally, state administered pension plans, which include roughly 90% of all covered public employees, are well managed and no state plan has ever defaulted in pension payments.

The only real problem in the state pension fund community, and one that afflicts a small percentage of that community, is underfunding. The seriousness of this problem is questionable, since many of the states guarantee their pension funds[3] and the remainder, although not guarantors in law, are politically bound to stand behind their retirants. In addition, the experts disagree as to proper funding levels for public plans, as compared with private plans. In any event, where state retirement systems are underfunded, that fact has been fully disclosed to the members and the public at large and is generally the subject of intense policy debate.

One reason for the sound health of state pension systems has been the extraordinary level of state legislative activity reforming public plan administration and oversight. As this report demonstrates, more than 23 states have special legislative retirement commissions charged with ongoing review of the performance of public pension systems and with making recommendations for needed legislative reforms (Chart A). These commissions have been responsible for major legislative initiatives in states such as Arkansas, Illinois and Pennsylvania. States lacking formal oversight commissions have designated permanent and interim committees of the legislature to oversee pension fund performance. These developments have resulted in a core group of state legislators and staff with special expertise on the complicated issues affecting public pension system administration.

*Financial and System Performance Reporting:* All state retirement systems are subject to independent audit and actuarial valuation. All state level systems are required by law to have an annual audit performed by either the state auditor or an independent auditor — or by both. All of the states have actuarial valuations performed by certified actuaries at least every two years (Massachusetts — three years) and the majority also commission periodic (3-5 years) valuations of the mortality, service and compensation experience of members and beneficiaries. These reports, which, for the most part, are prepared by major national firms with pension fund expertise, are distributed to key officers of the executive and the legislature, and are available to the public upon request. They are generally distributed to employers and members in summary form.

In addition to these outside assessments, all state retirement systems are required to file detailed financial reports with the Governor (the Commissioner of Insurance or some other members of the executive) and the legislature, some on a monthly and some on an annual basis. These reports, although differing in form from

---

[1] NCTR is a membership organization of 45 state, 13 local and two territorial retirement systems, some of which serve teachers exclusively, others of which include other state and local employee groups. The total assets of NCTR's 45 state systems are roughly $160 billion and the plans include over five million active participants.

[2] From EBRI (Employee Benefit Research Institute) News Release "New Five-Year Census Shows Fewer but Better-Funded State and Local Pension Systems." See also "1982 Census of Governments: Employee Retirement Systems of State and Local Governments" (GC82(6)-1).

[3] A 1983 survey by the National Education Association, entitled Retirement Systems of School Employees, identified 14 states that guarantee their retirement systems. This report identifies four additional states with similar guarantees: Florida, Maryland, Oklahoma, and South Dakota.

state to state,[4] provide comprehensive information on the financial performance and problems of the system. For the most part, the state officials who supervise the public plans receive more detailed information regarding plan operations than the U.S. Department of Labor currently receives regarding ERISA-regulated private pension plans.

If a legislator or a member of the public wants to go behind the formal retirement system reports, he is entitled in all 50 states to inspect the underlying transactional records of the system and/or to attend the meetings of its board. As Chart B demonstrates, all 50 states have enacted liberal government-in-the sunshine, Freedom of Information and open meetings laws. The net result is that all records and proceedings of the system are open except for individual retirant accounts and investment deliberations. Even in the investment area, as is discussed below, most of the state retirement systems have published investment policies and rely on outside investment performance analysts, whose reports are also available to the public.

*Communication with Members:* The NCTR survey found that the state retirement systems are particularly effective in the area of member outreach. Virtually all state systems distribute member handbooks outlining benefit options and summarizing the structure of the plan. The handbooks are supplemented by newsletters and brochures reporting on new developments as well as by individual and group consultations on retirement options led by field staff. In addition, many systems furnish separate pamphlets publishing the sections of the state code governing the performance of the retirement system (the codes are also available in most state libraries). Members in all 50 states are given annual written statements of the status of their individual accounts and are accorded formal appeal rights from the denial of benefits. Almost without exception, the retirement systems have made an effort to communicate in a clear and simple fashion with their members.

The New York and Delaware systems offer good examples of member outreach. NYSTRS conducts individual consultations for members at 26 locations throughout the state. During the 1983-84 school year, more than 6,000 members met with retirement system representatives and another 3,000 visited the plan's Albany offices. The system also conducted 75 group workshops and seminars, and published a quarterly newsletter for its participants. In Delaware, the system's 22 field officers traveled throughout the state to conduct group and individual counseling. The system additionally distributed various pamphlets and installed a toll-free "800" number for telephone inquiries.

*Regulation of the Investment Function:* Because the states bear ultimate responsibility (whether legal or political) for the viability of their retirement systems, investment performance has increasingly been the subject of legislative attention. Many states have enacted reforms to insure the actuarial soundness of their systems; others have simply strengthened the fiduciary standards governing those responsible for the investment function.

In this regard, the NCTR survey shows that 11 states have enacted a prudent expert rule similar to the ERISA rule (Alaska, Arkansas, California, Illinois, Kentucky, Louisiana, Massachusetts, Michigan, Ohio, Utah, and Wisconsin). Thirty-tree states have adopted the slightly more lenient prudent man rule (the level of prudence is that of one investing his own assets rather than that of an expert in institutional investment), which is generally combined with other guidelines such as a list of permissible investments, a mandate to diversify investments, limits on the level of investment permitted for any individual investment or category of investments, or a prohibition against one or more specific types of investment. Seven states have neither standard, relying instead on a stricter statutory definition of permissible investments (Delaware, Georgia, Hawaii, New Hampshire, New York, North Carolina and North Dakota) Three of these states (New York, New Hampshire, and Hawaii) have hybrid systems, consisting of specific statutory instructions for the bulk of investments, with greater flexibility allowed for a smaller percentage of investments (5, 10 or 15%) in regard to which the prudent person rule controls. (See Chart C for a summary of state investment standards.)

Almost all of the states have additional provisions directing that investments be made "in the best interests of the participants" or "for the exclusive purpose of providing benefits to participants and their beneficiaries." They also have ethics in government laws, conflict of interest laws or laws defining the responsibilities of trustees that proscribe self-dealing and profiteering and that hold public servants (such as the trustees and employees of retirement systems) to high ethical standards. The standards governing investments are backed by strict statutory sanctions for non-conformance, as are the ethics laws. In most states, violators may be punished by both civil and criminal penalties.

Equally important, the states are increasingly professionalizing the management of public retirement system assets and subjecting it to a high level of supervision. The NCTR survey showed that 45 state systems currently rely on outside investment performance analysts to assist them and the officers of the state in measuring fund performance. Forty-five states publish their investment policies, making them available to all interested parties. And all of the states are increasingly competitive in hiring outside investment managers and advisors. (See Chart D.) Equally important, through a variety of vehicles, the states are involving financial experts in the investment decision-making process. As noted above, over 22 states have separated the investment function from the benefit administration function, assigning the former to a state investment board responsible for investing all public pension system assets (and in some cases all state agency assets); other states have created special investment advisory committees drawing upon

[4] There is, however, increasing standardization in reporting because most of the state systems rely on a small number of leading actuarial firms. In addition, the trend toward standardization in financial reporting has received significant impetus from the recent activation of the Governmental Accounting Standards Board (GASB).

experts in the field who guide board members in making investment decisions; still other states have mandated the inclusion of investment experts on the board of trustees itself.

State employee retirement systems can undoubtedly be improved. But the NCTR survey makes it clear that, for the most part, the 90% of all state and local employees covered by these systems are well served. Over the past 5-10 years, the state legislatures have enacted and continue to enact major legislative reforms that have resulted in administrative improvements for these systems that put them ahead of their private and federal government counterparts. In recent years, many state legislatures have also begun to attack the problems of local government pension systems, imposing consolidation schemes, uniform reporting requirements and other much needed reforms. Some have even offered emergency financial guarantees to local systems. As the U.S. Advisory Commission on Intergovernmental Relations (ACIR) has reported: "state and local governments have established a record as permanent, economically secure institutions with strong moral, contractural, and, in some cases, constitutional commitments backing pension liabilities."[5]

In summary, the state regulatory frameworks governing state retirement systems are well conceived and, for the most part, well enforced. They are reviewed periodically and systematically by the state legislatures. The necessary laws are on the books to protect plan participants and beneficiaries. It's up to state government officials, retirement system administrators, system members and the concerned public to make certain that they are effectively implemented.

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[5] Advisory Commission on Intergovernmental Relations, "State and Local Pension Systems," Washington, D.C., December, 1980 (A-71).

## CHART A
## LEGISLATIVE OVERSIGHT COMMISSIONS OR COMMITTEES

| | |
|---|---|
| ALABAMA (TRSA) | House Ways & Means Committee<br>Senate Finance & Taxation Committee |
| ALASKA (ATRS) | Health, Education & Social Services Committee<br>Finance Committee |
| ARIZONA (ASRS) | House Government Operations Committee<br>Senate Insurance, Retirement & Aging Committee<br>Joint Legislative Budget Committee |
| ARKANSAS (ATRS) | • State Pension Review Board<br>Joint Legislative Committee on Public Retirement and Social Security Programs |
| CALIFORNIA (STRSC) | • Joint Committee on Public Pension Fund Investments |
| COLORADO (PERA) | Legislative Audit Committee |
| CONNECTICUT (CTRS) | Appropriations Committee |
| DELAWARE (DSEPP) | State Department of Finance * |
| FLORIDA (FRS) | House Committee on Retirement, Personnel & Collective Bargaining<br>Senate Committee on Personnel, Retirement & Collective Bargaining |
| GEORGIA (TRSG) | House Retirement Committee<br>Senate Retirement Committee |
| HAWAII (HERS) | Public Employment and Government Operations Committee |
| IDAHO (PERSI) | State Affairs Committee (both houses) |
| ILLINOIS (ITRS) | Pension Laws Committee (both houses)<br>• Illinois Economic and Fiscal Commission |
| INDIANA (ISTRF) | • Pension Management Oversight Commission |

* Primary supervision is performed by this Department.

• Indicates special committee or commission charged with oversight of public pension system performance, including assessment of proposed legislation affecting public system.

| | |
|---|---|
| IOWA (IPERS) | • Joint State Government Committee |
| KANSAS (KPERS) | House and Senate Ways & Means Committees<br>House Pensions, Investments & Benefits Committee |
| KENTUCKY (TRSKY) | House and Senate Appropriations and Revenue Committees and Education Committee |
| LOUISIANA (TRSL) | • Joint Legislative Retirement Committee |
| MAINE (MSRS) | Joint Standing Committee on Aging, Veterans and Retirement |
| MARYLAND (MSRPS) | • Annual *ad hoc* Joint Pension Committee |
| MASSACHUSETTS (MTRS) | Committee on Public Service |
| MICHIGAN (MPSERS) | House Retirement Committee<br>Senate Appropriations Subcommittee on Retirement |
| MINNESOTA (MTRA) | • Legislative Commission on Pensions & Retirement |
| MISSISSIPPI (PERS) | House Appropriations Committee<br>Senate Finance Committee |
| MISSOURI (PSRSM) | • Joint Committee on Public Employee Retirement |
| MONTANA (MTRS) | Legislative Council |
| NEBRASKA (NSERS) | • Legislative Retirement Committee |
| NEVADA (PERSON) | • Interim Retirement Committee |
| NEW HAMPSHIRE (NHRS) | House/Senate Appropriations Committees |
| NEW JERSEY (TPAF-NJ) | Mostly *ad hoc* but especially Government & Civil Service, Pensions, & Veterans' Affairs Committee |

| | |
|---|---|
| NEW MEXICO (NMERS) | Legislative Finance Committee |
| NEW YORK (NYSTRS) | Senate: Civil Service & Pensions Committee<br>Finance Committee<br>House: Government Employees Committee<br>Ways & Means Committee |
| NORTH CAROLINA (TPERS) | • Senate Pensions & Retirement Committee |
| NORTH DAKOTA (TFFR) | Legislative Audit Committee<br>Legislative Budget Committee<br>Legislative Committee on Public Retirement |
| OHIO (STRSO) | • Retirement Study Commission |
| OKLAHOMA (TRSO) | Senate Committee on Judiciary & Retirement<br>House Committee on Retirement Laws |
| OREGON (OPERS) | Retirement, Banking & Insurance Committee |
| PENNSYLVANIA (PPSERS) | • Public Employee Retirement Study Committee |
| RHODE ISLAND (ERSRI) | • Joint Committee on Pensions & Retirement |
| SOUTH CAROLINA (SCRS) | • Joint Continuing Committee on Retirement |
| SOUTH DAKOTA (SDRS) | Retirement Laws Committee |
| TENNESSEE (TCRS) | • Council on Pensions & Retirement |
| TEXAS (TRST) | • State Pension Review Board |
| UTAH (USRB) | Retirement Subcommittee (of State & Local Affairs Committee)<br>Joint Appropriations Committee on General Government & Capital Facilities (budget) |
| VERMONT (TRSV) | House & Senate Government Operations Committees and Appropriations Committees |

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|---|---|
| VIRGINIA (VSRS) | • Retirement System Review Board |
| WASHINGTON (WDRS) | House/Senate Ways & Means Committees |
| WEST VIRGINIA (STRS) | • Joint Commission on Pensions & Retirement |
| WISCONSIN (WRS) | • Joint Survey Committee on Retirement Systems Retirement Research Committee |
| WYOMING (WRS) | Joint Appropriations Committee |
| CITY SYSTEMS | |
| CHICAGO (CTPF) | • Public Employee Pension Laws Commission |
| MINNEAPOLIS (MTRFA) | • State Legislative Committee on Pensions & Retirement |
| ST. LOUIS (PSRS) | Joint Committee on Public Employee Retirement |

# CHART B
# OPEN RECORDS AND OPEN MEETINGS LAWS

| | |
|---|---|
| ALABAMA<br>(TRSA) | Public Records Law - ALA. CODE tit. 36, § 12-40<br>Open Board Meetings - ALA. CODE tit. 13A, § 14-2(a) |
| ALASKA<br>(ATRS) | Public Records Law - ALASKA STAT. § 09.25.110<br>Open Board Meetings - ALASKA STAT. § 44.62.310 |
| ARIZONA<br>(ASRS) | Public Records Law - ARIZ. REV. STAT. ANN. § 39-121<br>Open Board Meetings - ARIZ. REV. STAT. ANN. § 38-431 |
| ARKANSAS<br>(ATRS) | Open Board Meetings - ARK. STAT. ANN. § 12-2801 and § 80-1438.3.05<br>FOIA - ARK. STAT. ANN. § 12-2803 |
| CALIFORNIA<br>(STRSC) | Public Records Law - CAL. EDUC. CODE § 22221 (DEERING)<br>Open Board Meetings - CAL. GOV'T CODE § 6250 (DEERING) |
| COLORADO<br>(PERA) | Public Records Law - COLO. REV. STAT. § 24-72-203<br>Open Board Meetings - COLO. REV. STAT. § 24-6-402 |
| CONNECTICUT<br>(CTRS) | Public Records Law - CONN. GEN. STAT. § 1-19<br>Open Board Meetings - CONN. GEN. STAT. § 1-21 |
| DELAWARE<br>(DSEPP) | Public Records Law - DEL. CODE ANN. tit. 29, § 10002<br>Open Board Meetings - DEL. CODE ANN. tit. 29, § 10004(a) |
| FLORIDA<br>(FRS) | Public Records Law - FLA. STAT. § 119.07<br>Open Board and Commission Meetings - FLA. STAT. § 286.011 |
| GEORGIA<br>(TRSG) | Public Records Law - GA. CODE § 47-3-26(f)<br>Open Board Meetings - GA. CODE § 47-3-26(f) |
| HAWAII<br>(HERS) | FOIA - HAWAII REV. STAT. §§ 88-103,92-50<br>Open Board Meetings - HAWAII REV. STAT. § 92-2 |
| IDAHO<br>(PERSI) | FOIA - IDAHO CODE § 9.301<br>Open Board Meetings - IDAHO CODE § 67-2341 |
| ILLINOIS<br>(ITRS) | Public Records Law - ILL. REV. STAT. ch. 108-1/2, § 16-174; ch. 116, § 43.6<br>Open Board Meetings - ILL. REV. STAT. ch. 102, § 41.42 |
| INDIANA<br>(ISTRF) | Public Records Law - IND. CODE § 5-14-1-3<br>Open Board Meetings - IND. CODE § 5-14-1-4 |
| IOWA<br>(IPERS) | Public Records Law - IOWA CODE § 28A.3<br>Open Board Meetings - IOWA CODE § 28A.2 |

| | |
|---|---|
| KANSAS<br>(KPERS) | Public Records Law - KAN. STAT. ANN. § 45-201 and § 74-4909(2)<br>Open Board Meetings - KAN. STAT. ANN. § 74-4909(4) |
| KENTUCKY<br>(TRSKY) | FOIA - KY. REV. STAT. § 61.872<br>FOIA - Teachers - KY. REV. STAT. § 61.884<br>Open Board Meetings - KY. REV. STAT. § 61.805 |
| LOUISIANA<br>(TRSL) | Public Records Law - LA. REV. STAT. § 17:657 & § 1 *et seq.*<br>Open Board Meetings - LA. REV. STAT. § 42:5 |
| MAINE<br>(MSRS) | Public Records Law - ME. REV. STAT. ANN. tit. 1, § 402; tit. 5, § 1031.9<br>Open Board Meetings - ME. REV. STAT. ANN. tit. 1, § 404 |
| MARYLAND<br>(MSRPS) | FOIA - MD. STATE GOV'T CODE ANN. § 10-612<br>Open Board Meetings - MD. STATE GOV'T CODE ANN. § 10-505 |
| MASSACHUSETTS<br>(MTRS) | Public Records Law - MASS. GEN. LAWS ANN. ch. 66, § 10 (WEST)<br>Open Board Meetings - MASS. GEN. LAWS ANN. ch. 30A, § 11A-1/2 (WEST) |
| MICHIGAN<br>(MPSERS) | Public Records Law - MICH. STAT. ANN. § 4.1801(1)<br>Open Board Meetings - MICH. STAT. ANN. § 38.1323 |
| MINNESOTA<br>(MTRA) | FOIA - MINN. STAT. ANN. § 15.1672 (WEST)<br>Open Board Meetings - MINN. STAT. ANN. § 471.705 (WEST) |
| MISSISSIPPI<br>(PERS) | Public Records Law - MISS. CODE ANN. §§ 25-11-119(2), 25-61-1<br>Open Board Meetings - MISS. CODE ANN. §§ 25-11-119(4), 25-41-3 |
| MISSOURI<br>(PSRSM) | Public Records Law - MO. ANN. STAT. §§ 109.180, 169.020, 610.105 (VERNON)<br>Open Board Meetings - MO. ANN. STAT. §§ 109.180, 169.020, 610.105 (VERNON) |
| MONTANA<br>(MTRS) | Public Records Law - MONT. CODE ANN. §§ 19-4-201(3), 2-3-212, 93-10001-3<br>Open Board Meetings - MONT. CODE ANN. § 2-3-203 |
| NEBRASKA<br>(NSERS) | Public Records Law - NEB. REV. STAT. § 84-712<br>Open Board Meetings - NEB. REV. STAT. § 84-1409 |
| NEVADA<br>(PERSON) | FOIA - NEV. REV. STAT. § 239.010<br>Open Board Meetings - NEV. REV. STAT. § 241.020 |
| NEW HAMPSHIRE<br>(NHRS) | Public Records Law - N.H. REV. STAT. ANN. § 91-A:4<br>Open Board Meetings - N.H. REV. STAT. ANN. § 91-A:1-a |
| NEW JERSEY<br>(TPAF-NJ) | Public Records Law - N.J. STAT. ANN. § 41:1A-2 (WEST)<br>Open Board Meetings - N.J. STAT. ANN. § 10:4-12a (WEST) |
| NEW MEXICO<br>(NMERS) | FOIA - N.M. STAT. ANN. § 14-2-1<br>Open Board Meetings - N.M. STAT. ANN. § 10-15-1 |

| | | |
|---|---|---|
| NEW YORK (NYSTRS) | FOIA<br>Open Board Meetings | - N.Y. PUB. OFF. LAW § 85; N.Y. EDUC. LAW § 508(6)<br>- N.Y. PUB. OFF. LAW § 97 |
| NORTH CAROLINA (TPERS) | Public Records Law<br>Open Board Meetings | - N.C. GEN. STAT. § 132-1<br>- N.C. GEN. STAT. § 143-318.10 |
| NORTH DAKOTA (TFFR) | Public Records Law<br>Open Board Meetings | - N.D. CENT. CODE § 44-04-18<br>- N.D. CENT. CODE § 40-04-19; N.D. CONST. AMEND. Art. 92 |
| OHIO (STRSO) | Public Records Law<br>Open Board Meetings | - OHIO REV. CODE ANN. § 3307.21<br>- OHIO REV. CODE ANN. § 121.22B |
| OKLAHOMA (TRSO) | Public Records Law<br>Open Board Meetings | - OKLA. STAT. tit. 51, § 51-24<br>- OKLA. STAT. tit. 51, § 25-304 |
| OREGON (OPERS) | Public Records Law<br>Open Board Meetings | - OR. REV. STAT. § 192.420<br>- OR. REV. STAT. § 192.610 |
| PENNSYLVANIA (PPSRS) | Public Records Law<br>Open Board Meetings | - 24 PA. CONS. STAT. ANN. § 8502(d) and (e)<br>- 65 PA. CONS. STAT. ANN. § 267 |
| RHODE ISLAND (ERSRI) | FOIA<br>Open Board Meetings | - R.I. GEN. LAWS § 38-2-2<br>- R.I. GEN. LAWS § 42-46-2 |
| SOUTH CAROLINA (SCRS) | Public Records Law<br>FOIA | - S.C. CODE § 9-1-300<br>- S.C. CODE §§ 3 and 6 |
| SOUTH DAKOTA (SDRS) | Public Records Law<br>Open Board Meetings | - S.D. CODIFIED LAWS ANN. § 3-12-59<br>- S.D. CODIFIED LAWS ANN. §§ 1-25-1 and 1-25-2 |
| TENNESSEE (TCRS) | Public Records Law<br>Open Board Meetings | - TENN. CODE ANN. § 8-34-315 (Proceedings of Bd.); TENN. CODE ANN. § 10-78-104 (state)<br>- TENN. CODE ANN. § 8-4402 |
| TEXAS (TRST) | Public Records Law<br>Open Board Meetings | - TEX. REV. CIV. STAT. ANN. art. 6252-17a and art. 1108, § 35.107 (VERNON)<br>- TEX. REV. CIV. STAT. ANN. art. 6252-17 |
| UTAH (USRB) | Public Records Law<br>Open Board Meetings | - UTAH CODE ANN. §§ 52-4-2<br>- UTAH CODE ANN. § 78-26-1 |
| VERMONT (TRSV) | Public Records Law<br>Open Board Meetings | - VT. STAT. ANN. tit. 16, § 1942; tit. 1, § 317<br>- VT. STAT. ANN. tit. 1, § 312 |
| VIRGINIA (VSRS) | FOIA<br>Open Board Meetings | - VA. CODE § 2.1-341,342<br>- VA. CODE § 15-111.23 |

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|---|---|
| WASHINGTON (WDRS) | Public Records Law - WASH. REV. CODE § 42.17.260<br>Open Board Meetings - WASH. REV. CODE § 42.30.020 |
| WEST VIRGINIA (STRS) | Public Records Law - W.VA. CODE § 1; § 6-9A-2<br>Open Board Meetings - W.VA. CODE § 29B-1-2 |
| WISCONSIN (WRS) | FOIA - WIS. STAT. § 19.35<br>Open Board Meetings - WIS. STAT. § 19.83 |
| WYOMING (WRS) | Public Records Law - WYO. STAT. § 9-9-101<br>Open Board Meetings - WYO. STAT. § 9-11-102 |
| CITY SYSTEMS | |
| CHICAGO (CTPF) | Public Records Law - ILL. REV. STAT. ch. 116, § 43.6<br>Open Board Meetings - ILL. REV. STAT. ch. 102, §§ 41 and 42 |
| ST. LOUIS (PSRS) | Public Records Law - MO. REV. STAT. § 169.450.10<br>Open Board Meetings - MO. REV. STAT. § 610.010 |
| MINNEAPOLIS (MTRFA) | None. |

# CHART C
# FIDUCIARY STANDARDS GOVERNING INVESTMENTS

| | |
|---|---|
| ALABAMA (TRSA) | prudent person (as part of investment policy); can make same investments as domestic life insurance companies (tit. 16, § 25-20); 20% limit on equities |
| ALASKA (ATRS) | ERISA prudent expert (§ 14.25.180(c)); statutory list of permissible investments (§ 14.25.180) |
| ARIZONA (ASRS) | prudent person (§ 14-7302); statutory list of permissible investments (§ 38.757) |
| ARKANSAS (ATRS) | ERISA prudent expert (§ 12-3307.7.01); Arkansas-related investments 5-10% (§ 12-3307.7.14) |
| CALIFORNIA (STRSC) | prudent expert (Cal. Const. Sec. 17, Art. XVI); statutory list of permissible investments (EDUC. CODE § 22222); must diversify; 25% must go to Cal. residential mortgages (FIN. CODE § 13000) |
| COLORADO (PERA) | prudent person (§ 15-1-304) - 50% limit corp. stock/convertible debentures |
| CONNECTICUT (CTRS) | same standard as applies to savings banks and trust funds — prudent investor (§ 10-183m); statutory limits (§ 3-13d, § 36-94); encourages diversification; 50% limit on common stock |
| DELAWARE (DSEPP) | prudent person (board policy); no other limits |
| FLORIDA (FRS) | prudent person; diversification (§§ 215.47(7) and 581.11); statutory limits on permissible investments and statutory definition of manner in which benefits must be related to funding (§§ 21, 112; Art. X, Section 14 Constitution) |
| GEORGIA (TRSG) | subject to restrictions imposed on domestic life insurers and provided no more than 50% of system's assets are invested in equities; statutory limits on level of any single investment. (Investment policy assumes prudent person standard.) |
| HAWAII (HERS) | statutory list of permissible investments; 40% limit on common and preferred stocks; l0% of book value may be invested according to "prudent person" standard (§ 88-119) |
| IDAHO (PERSI) | prudent person (§ 68-502); Board sets investment policy |
| ILLINOIS (ITRS) | prudent expert (ch. 108-1/2, § 1-109-1): diversification |
| INDIANA (ISTRF) | prudent person (§ 21-6.1-3-9); statutory list of permissible investments; no investments in equities (Art. II, § 12 Constitution) |

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|---|---|
| IOWA (IPERS) | prudent person (§ 97B.7.b), with statutory restrictions on permissible investments |
| KANSAS (KPERS) | prudent person (§ 74-4921) - 50% limit on common stock |
| KENTUCKY (TRSKY) | ERISA prudent expert (§ 161.430); prohibition against buying more than 25% of any single stock issue and against investing more than 7% of system's invested funds in any issue. |
| LOUISIANA (TRSL) | prudent expert (§ 42:715-717) - 25% limit on investments in equities |
| MAINE (MSRS) | prudent person (tit. 5, § 1061.1) |
| MARYLAND (MSRPS) | prudent person (art. 73B, § 74) - 50% limit on purchases of common stock; no more than 15% in non-dividend stock |
| MASSACHUSETTS (MTRS) | prudent expert (ch. 32, § 23(3)); statutory restrictions (ch. 32, § 23(2A)(h)); no mortgages or collateral loans; about 1% of fund must go to Mass. Technology Develop. Corp.; no investments in South Africa or N. Ireland munitions manufacturers |
| MICHIGAN (MPSERS) | prudent expert (§ 38.1132); statutory list of permissible investments (§ 38.1132) and 50% limit on corp. equities; 2% limit on venture capital |
| MINNESOTA (MTRA) | prudent person (§ 11A.01); statutory limits — 80% of assets must be invested in government obligations, qualified corporate obligations and other types of commercial paper, and mortgage participation certificates; 20% may be allocated to more speculative investments |
| MISSISSIPPI (PERS) | prudent person (§ 25-11-121); statutory list of permissible investments (§ 25-11-121(1-5)) |
| MISSOURI (PSRSM) | prudent person (§ 169.040.2); statutory list of permissible investments (§ 169.040) - must diversify |
| MONTANA (MTRS) | prudent person (§ 17-6-201); statutory list of permissible investments (§ 17-6-211), with limits set by category |
| NEBRASKA (NSERS) | prudent person (§ 72-1247); no buying on margin; no put or call options |
| NEVADA (PERSON) | prudent person (§ 286.682); no investments in South Africa unless companies conform to Sullivan principles |

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|---|---|
| NEW HAMPSHIRE (NHRS) | statutory list of permissible investments, which are those authorized for domestic life insurance companies (§ 100-A:15); 15% of assets may be invested more freely according to prudent person standard. Board is also directed to invest in manner that will benefit state's economy, so long as consistent with sound investment practices. |
| NEW JERSEY (TPAF-NJ) | prudent person (§ 3B:20-12); statutory list of permissible investments, with limits on investments in common stock |
| NEW MEXICO (NMERS) | prudent person (§ 22-11-13(c)); statutory limits imposed on categories of investments (§ 22-11-13) (75% limit corp stocks/bonds) |
| NEW YORK (NYSTRS) | 95% according to statutory list of permissible investments; 5% according to prudent person standard (EDUC. LAW § 508) |
| NORTH CAROLINA (TPERS) | statutory list of permissible investments |
| NORTH DAKOTA (TFFR) | "best interests" of state (§ 21-10-05); statutory list of permissible investments (§ 26-10-07), with 80% fixed income mandatory and 30% limit on equities |
| OHIO (STRSO) | prudent expert; statutory investments (§ 3307.15), with specified limits (35% limit on equities, 25% limit on real estate, 5% limit on venture capital) |
| OKLAHOMA (TRSO) | prudent person (tit. 70, § 17-107(a)); statutory list of permissible investments (tit. 70, § 17-107(B)) |
| OREGON (OPERS) | prudent person (§ 293.726); 50% limit on investments in common stocks |
| PENNSYLVANIA (PPSERS) | prudent person re corporate stock (ch. 24 § 8521(h)), with limits on level of investment in any one company |
| RHODE ISLAND (ERSRI) | prudent person (§ 35-10-6) |
| SOUTH CAROLINA (SCRS) | prudent person (§ 21-11-10); statutory list of permissible investments (§ 11-9-660) |
| SOUTH DAKOTA (SDRS) | prudent person (§ 4-5-27); State Investment Council required to formulate policy (§ 4-5-28) |
| TENNESSEE (TCRS) | prudent person (§ 35-3-117(b)); same standards as apply to domestic life insurers, with 50% limit on stocks (§ 56-3-303) |
| TEXAS (TRST) | prudent person (art. 16, § 67); no equity ownership in real estate |
| UTAH (USRB) | ERISA prudent expert (§ 49-9-12); broad authorization |

| | |
|---|---|
| VERMONT (TRSV) | prudent person (tit. 8; § 3643); statutory list of permissible investments (tit. 16; § 1943) |
| VIRGINIA (VSRS) | prudent person (§ 51-111.24:2); statutory list of permissible investments (§ 51-111.24) |
| WASHINGTON (WDRS) | prudent person (§§ 41.50.085, 43.33A.14) plus diversification; certain limits on individual investments |
| WEST VIRGINIA (STRS) | prudent person (§ 12-6-12); statutory list of permissible investments (§ 12-6-8(f)); no equities; 75% limit on corporate debt, 20% cap on corporate debt maturing in one year, and 3% ceiling on debt in single corporation |
| WISCONSIN (WRS) | ERISA prudent expert (1983 Budget Act); board has same authority as insurance companies in regard to fixed dividend investments, and may invest 50% of assets in other categories. |
| WYOMING (WRS) | prudent person (§ 2-3-301); statutory list of permissible investments (§ 9-3-424) - 35% limit corp. stock, with no more than 1% in any one corporation. |
| CITY SYSTEMS | |
| CHICAGO (CTPF) | ERISA prudent expert (ch. 108-1/2, § 1-109(b)); statutory list of permissible investments (ch. 108-1/2, § 1-113) |
| MINNEAPOLIS (MTRFA) | prudent person; no capital stock |
| ST. LOUIS (PSRS) | prudent person (§ 169.480) |

# CHART D
# STATE RETIREMENT SYSTEM INVESTMENT ADMINISTRATION

| | Reliance on Outside Investment Performance Analyst | Responsibility for Investments | Published Investment Policy |
|---|---|---|---|
| ALABAMA (TRSA) | No | Board of Trustees, assisted by 7-person in-house staff plus AmSouth Bank | Yes |
| ALASKA (ATRS) | Merrill Lynch | Commissioner of Revenue, assisted by 4 in-house staff plus 13 outside advisors | Yes |
| ARIZONA (ASRS) | SEI Funds Evaluation Services<br>Wilshire Associates | Investment Advisory Council (5 members with 10 years' investment experience), assisted by outside investment managers (8 firms) | No |
| ARKANSAS (ATRS) | No | Investment Committee of Board of Trustees, assisted by Oppenheimer Capital and First Commercial Bank of Little Rock | Yes |
| CALIFORNIA (STRSC) | Wilshire Associates | Board of Trustees, assisted by Wilshire Associates (2 Board members must have investment experience) | Yes |
| COLORADO (PERA) | Merrill Lynch | Board of Trustees assisted by 7-member investment staff. Also, Bankers Trust Co. of N.Y. and Provident National Bank of Philadelphia | Yes |
| CONNECTICUT (CTRS) | State Auditor of Public Accounts | State Treasurer assisted by Investment Advisory Council (including 5 outside experts) | Yes |
| DELAWARE (DSEPP) | Gentry Associates | Board of Trustees assisted by 20 money management firms and Ashford Capital Management | Yes |
| FLORIDA (FRS) | SEI Funds Evaluation Services | State Board of Administration assisted by 6-person Investment Advisory Council | Yes |
| GEORGIA (TRSG) | Merrill Lynch | Investment Committee of Board of Trustees with guidance from First National Bank of Atlanta | Yes |
| HAWAII (HERS) | SEI Funds Evaluaton Services<br>Callan Associates | Board of Trustees assisted by l6 money management firms (l trustee must be an expert) | Yes |

| | Reliance on Outside Investment Performance Analyst | Responsibility for Investments | Published Investment Policy |
|---|---|---|---|
| IDAHO (PERSI) | SEI Funds Evaluation Services | Board of Trustees assisted by funding agents (bank, trust company, legal reserve life insurance company, etc.) | Yes |
| ILLINOIS (ITRS) | SEI Funds Evaluation Services | State Board of Investments assisted by 20 outside investment managers | Yes |
| INDIANA (ISTRF) | No | Board of Trustees assisted by staff investment manager and 5 outside advisors (5 trustees have financial experience; two are required by statute) | Yes |
| IOWA (IPERS) | Wilshire Associates | State Treasurer assisted by Advisory Investment Board (7 members, three of whom must be experts) | Yes |
| KANSAS (KPERS) | Callan Associates | Board of Trustees chosen for investment expertise, assisted by investment counselors (6) | Yes |
| KENTUCKY (TRSKY) | SEI Funds Evaluation Services<br>Merrill Lynch | Board of Trustees assisted by 2 persons in-house and also by Todd Investment Advisors and Alliance Capital Management, Inc. | Yes |
| LOUISIANA (TRSL) | Merrill Lynch | Board of Trustees assisted by 4-member investment staff and outside counselors (4) | Yes |
| MAINE (MSRS) | Boston Company | Board of Trustees assisted by 13 outside investment managers (2 trustees are experts) | Yes |
| MARYLAND (MSRPS) | No | State Investment Agency (SIA) assisted by in-house staff as well as outside investment managers and advisors. SIA is supervised by State Investment Council (includes Board members from various public plans plus 3 experts) | Yes |
| MASSACHUSETTS (MTRS) | State Analyst | Pension Reserves Investment Management Board and the 3-member investment committee | Yes |
| MICHIGAN (MPSERS) | SEI Funds Evaluation Services | State Treasurer assisted by Investment Advisory Committee (5 members) | No |

| | Reliance on Outside Investment Performance Analyst | Responsibility for Investments | Published Investment Policy |
|---|---|---|---|
| MINNESOTA (MTRA) | Merrill Lynch | State Board of Investment assisted by Investment Advisory Council (trustees of state pension plans and 10 experts included) and 21 outside investment managers | Yes |
| MISSISSIPPI (PERS) | SEI Funds Evaluation Services | Board of Trustees assisted by in-house managers plus 12 outside investment managers (7 fixed, 5 equity) | Yes |
| MISSOURI (PSRSM) | National FSI Investment performance System | Board of Trustees assisted by Boatmen's Bank of St. Louis | Yes |
| MONTANA (MTRS) | Scudder, Stevens & Clark | State Board of Investments | No |
| NEBRASKA (NSERS) | No | State Investment Council assisted by in-house investment officer and Travelers Ins. Co. and Provident Investment Accounts | Yes |
| NEVADA (PERSON) | Shaw Data Services, Inc. | Board of Trustees assisted by private investment counselors (4) | Yes |
| NEW HAMPSHIRE (NHRS) | SEI Funds Evaluation Services | Board of Trustees assisted by l0 outside investment counselors | Yes |
| NEW JERSEY (TPAF-NJ) | SEI Funds Evaluation Services<br>Merrill Lynch<br>INDATA | State Investment Council (10 members - 5 with expertise) | Yes |
| NEW MEXICO (NMERS) | DeMarche & Associates | State Investment Council (a subcommittee of the Board of Trustees) assisted by private counselors (Von, Nelson, Scarborough & McConnell) | Yes |
| NEW YORK (NYSTRS) | Buck Pension Fund Services, Inc. | Board of Trustees (has 2 experts) assisted by Investment Advisory Committee and Mortgage Advisory Committee (both composed of outside experts) and 7 in-house investment staff | Yes |

| | Reliance on Outside Investment Performance Analyst | Responsibility for Investments | Published Investment Policy |
|---|---|---|---|
| NORTH CAROLINA (TPERS) | No | State Treasurer assisted by in-house staff and outside equity advisors. Also assisted by Equity Investment Advisory Committee | No |
| NORTH DAKOTA (TFFR) | Callan Associates | State Investment Board (5) assisted by Investment Director and outside managers (Bank of North Dakota and Robert & Sullivan) | Yes |
| OHIO (STRSO) | SEI Funds Evaluation Services | Board of Trustees assisted by 12 professionals in-house plus two outside advisors, Thorndike, Doran, Paine & Lewis and Karsten Companies | Yes |
| OKLAHOMA (TRSO) | SEI Funds Evaluation Services | Board of Trustees assisted by 3 in-house experts plus 3 outside counselors | Yes |
| OREGON (OPERS) | Wilshire Associates | State Treasurer assisted by Oregon Investment Council and 22 outside advisors | No |
| PENNSYLVANIA (PPSERS) | Evaluation Associates, Inc. | Board of Trustees assisted by 14 private sector managers | Yes |
| RHODE ISLAND (ERSRI) | Performed by banks represented by 3 expert SIC members | State Investment Commission (7 members, 3 banking experts) | Yes |
| SOUTH CAROLINA (SCRS) | A. G. Becker | Board of Trustees assisted by 5-person professional staff plus Jamieson, Eaton & Wood, Inc. | Yes |
| SOUTH DAKOTA (SDRS) | SEI Funds Evaluation Services | State Investment Council assisted by 6 outside managers | Yes |
| TENNESSEE (TCRS) | Council on Pensions & Retirement/Fiscal Review Committee in legislature | Board of Trustees assisted by Investment Advisory Council (5 experts, each with 5 years' experience) | Yes |
| TEXAS (TRST) | Merrill Lynch Thorndike, Doran, Paine & Lewis | Board of Trustees assisted by Investment Advisory Committee (13 private investment specialists) | Yes |

| | Reliance on Outside Investment Performance Analyst | Responsibility for Investments | Published Investment Policy |
|---|---|---|---|
| UTAH (USRB) | SEI Funds Evaluation Services | Board of Trustees assisted by professional in-house staff and 6 outside advisors | Yes |
| VERMONT (TRSV) | SEI Funds Evaluation Services | Board of Trustees assisted by Delaware Investment Advisors, Loomis Sayles, Rampart Investment Managers and Putnam Investment Advisors | Yes |
| VIRGINIA (VSRS) | Rogers, Casey & Barksdale | Board of Trustees assisted by Investment Advisory Council (3 experts) and 12 professional in-house staff plus 13-15 outside managers/advisors | Yes |
| WASHINGTON (WDRS) | Merrill Lynch | State Investment Board assisted by 5 outside advisors | Yes |
| WEST VIRGINIA (STRS) | Legislative Auditor | State Board of Investments assisted by Pittsburgh National Bank | Yes |
| WISCONSIN (WRS) | CDA Investment Technologies, Inc. | State Investment Board (including 2 WRS members and 4 experts) | Yes |
| WYOMING (WRS) | Segal Advisors, Inc. | Board of Trustees assisted by Alliance Capital Management Co., Lehman Management Co., Northwest Bank, N.A. | Yes |
| CITY SYSTEMS | | | |
| CHICAGO (CTPF) | Gabriel, Roeder, Smith & Co. | Board of Trustees assisted by Capital Supervisors, Inc. | No |
| MINNEAPOLIS (MTRFA) | First Corporate Securities of Minneapolis | Board of Trustees assisted by Advisory Investment Committee of experts | Yes |
| ST. LOUIS (PSRS) | DeMarche Associates | Board of Trustees assisted by outside managers (Mercantile Bank, Centerre Bank, Boatmen's Bank) | Yes |

# TEACHERS' RETIREMENT SYSTEM OF ALABAMA (TRSA)

Basic Facts:

- Number of active members: 88,429
- Number of benefit recipients: 20,253
- Total assets: $3.012 billion
- Amount of monthly annuity payroll: $11.3 million

The Teachers' Retirement System of Alabama (TRSA) is an instrumentality of the state created as a public corporation to provide a statewide retirement system for public education employees of the State of Alabama. The state guarantees the vested benefits of TRSA members and their beneficiaries. TRSA is governed by a Board of Control composed of 11 trustees,[1] and managed by a secretary-treasurer elected by the Board (ALA. CODE tit. 16, § 25-19).

TRSA is audited annually by the accounting firm of Peat, Marwick, Mitchell & Co. The Examiner of Public Accounts also performs a biannual audit, the results of which are made part of its annual report to the Governor and to the Legislative Committee on Public Accounts (ALA. CODE tit. 41, § 5-6).[2] An annual actuarial valuation of TRSA's assets and liabilities is performed by George B. Buck Consulting Actuaries, Inc. and is filed with the Speaker of the Alabama House. At least once every five years, the actuary also conducts an investigation of the mortality, service and compensation experience of the members and beneficiaries of the system to insure that the system remains actuarially sound (ALA. CODE tit. 16, § 25-19). In the legislature, the House Ways and Means Committee and the Senate Finance and Taxation Committee oversee public pension related matters, including TRSA budget requests.

TRSA is required by law to publish an annual report of the fund's fiscal transactions for the preceding year that shows the accumulated cash and securities of the system and presents a detailed balance sheet reflecting the financial condition of the system. The annual report is distributed to all state legislators and all employee representative groups and is available to members upon request. A complete actuarial statement can also be obtained on request. In addition, the records of TRSA and of the public agencies that monitor it are available under the Alabama Public Records Law (ALA. CODE tit. 36, § 12-40).[3]

TRSA conducts an extensive public information program. Its field staff travels throughout the state to counsel employers, members and their representatives. In addition, TRSA distributes a monthly newsletter and a number of brochures. Each member of the TRSA is provided a summary plan description of the TRSA. Additional plan information, as well as notification of any changes to the system, is provided to participants throughout the year in the newsletter. Each participant of the system receives an annual statement reporting designated beneficiaries; previously taxed and non-taxed member contributions and interest (current and cumulative); creditable service; a summary of earnings, contributions, and interest for each year of service; and various explanatory material. Participants may appeal adverse benefits decisions by TRSA to the Board of Control; a challenge to Board action may be brought in state court.

The TRSA Board of Control is charged with the duty of investing the system's funds in those classes of stocks, bonds, mortgages or other investments that are permissible investments for domestic life insurance companies under Alabama law (ALA. CODE tit. 16, § 25-20). In so doing, TRSA policy demands that the Board adhere to a prudent man standard.

In general, the Board may invest in any income producing asset provided, however, that no single investment, or combination of investments, in the obligations, property or securities of any one entity exceeds 10 percent of TRSA's total assets; the percentage limitation for equity securities is 20 percent of the total book value of the investments (ALA. CODE tit. 16, § 25-20, tit. 27, § 41-4).[4] The Board is responsible, along with the TRSA Secretary-Treasurer, for monitoring the performance of all investments. The Board's Investment Committee, composed of three Board members, makes all final decisions regarding investments. Any investment in excess of $500,000 must receive the unanimous approval of the Investment Committee (ALA. CODE tit. 16, § 25-21).

To assist the Investment Committee and the Secretary-Treasurer, TRSA employs an in-house investment staff of seven people and retains the investment department of AmSouth Bank as a consultant. TRSA produces an annual transactional report detailing specific dealings with the System's assets, which is available to the public. The Board of Control itself publishes a statement of investment policy; the Board's quarterly strategy reports, however, are available only to Board members.

No member of the Board of Control nor any of its employees is permitted to have any direct interest in the gains or profits of any TRSA investment. They are also forbidden from serving in any manner as an obligor, endorser or surety for monies loaned or borrowed from the Board (ALA. CODE tit. 16, § 25-21). All employees and

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[1] Board members include the State Superintendent of Education, the State Treasurer, the State Director of Finance, the Executive Secretary of the Alabama Education Association and seven TRSA members who are elected by the membership at large (ALA. CODE tit. 16, § 25-19).

[2] The Code further requires that if any TRSA expenditures or contracts are found to be in violation of the law, the Examiner of Public Accounts must report them to the Governor and the Legislative Committee on Public Accounts.

[3] Records of the Board of Control's proceedings are open to public inspection (ALA. CODE tit. 16, § 25-19). And Alabama law requires all Board proceedings to be open to the public (ALA. CODE tit. 13A § 14-2(a)).

[4] The Board of Control has established certain additional restrictions limiting investment in privately placed corporate bonds to 40 percent and investment in Canadian bonds to 10 percent of the total book value of the investment portfolio.

trustees of TRSA are bonded at $1 million, and are subject to Alabama Ethics Law (ALA. CODE tit. 36, § 25-1) which provides for criminal penalties of up to 10 years imprisonment and/or a $10,000 fine.

Alabama law makes it a misdemeanor for any person knowingly to falsify, or permit to be falsified, any record or report of the TRSA in an attempt to defraud the system (ALA. CODE tit. 16, § 25-24).

# ALASKA TEACHERS' RETIREMENT SYSTEM (ATRS)

Basic Facts:

- Number of active members: 8,655
- Number of benefit recipients: 1,777
- Total assets: $659,572,326
- Amount of monthly annuity payroll: $2,757,603

The Alaska Teachers' Retirement System (ATRS) is governed by the Teachers' Retirement Board (TRB), composed of five members (one of whom must be a retiree) appointed by the Governor for overlapping three-year terms, receiving benefits under ATRS.[1] The TRB provides general policy guidance for the system, conferring periodically with the Commissioners of Administration and Revenue regarding the administration and investment policies of the fund and recommending regulations to govern the operation of the system (ALASKA STAT. § 14.25.035).

The State Commissioner of Administration administers system benefits and related activities, while the Commissioner of Revenue is responsible for investing ATRS assets. The former appoints the Administrator (the Director of the Division of Retirement and Benefits), who, among other things, establishes and maintains the fund's system of accounts and approves or disapproves claims for retirement benefits (ALASKA STAT. § 14.25.030).

ATRS is audited annually by an independent accounting firm, which is selected through a formal request for proposals process. Price Waterhouse has performed the audit for the past three years. An actuarial valuation of the status of ATRS' funding and of the appropriate state contribution rate for each school district in the system is performed annually by William M. Mercer-Meidinger, Inc. The Alaska Statutes call for an actuarial evaluation of the retirement fund to be made at intervals of not more than five years, and mandate the preparation of actuarial and financial experience analyses by a member of the American Academy of Actuaries (ALASKA STAT. § 14.25.190).

Copies of the auditor's report and summary information from the actuary's annual valuation are included in the ATRS Annual Financial Report. This report, prepared for the Commissioner of Administration by the Division of Retirement and Benefits, is sent to the Governor, the Legislature, and the members of the ATRS Board within six months of the close of each fiscal year (ALASKA STAT. § 14.25.030). It is made available to all system employers and to members upon request.

ATRS provides each active member with an annual Statement of Account and an annual Credited Service Statement (ALASKA STAT. § 14.25.170) at the fiscal year-end. A summary plan description (SPD) in the form of an Information Handbook is also available to members of the system. To keep the membership informed of current developments including legislative changes that might affect them, the Division of Retirement and Benefits also publishes a quarterly newsletter. The Division has seven Retirement and Benefit Specialists who counsel members both in the office and throughout the state, responding to inquiries regarding new or proposed legislation, members' rights and benefits, system performance, and other issues. The Division also has an auditor who audits employers for their compliance with the statutes and regulations and trains them in the proper reporting of member contributions. Individual members are routinely informed of their right to appeal any denial of benefits to the ATRS Board (ATRS Regulation 2 AAC 36.040-2AAC 36.140, ALASKA STAT. § 14.25.175).

The Commissioner of Revenue is the Treasurer of the system. As such, the Commissioner acts as official custodian of the cash and securities of the ATRS and invests the system's assets in accordance with statutory requirements (ALASKA STAT. § 14.25.180). In so doing, the Commissioner is guided by the ERISA prudent expert rule and by a list of authorized investments (ALASKA STAT. § 14.25.180(4)(b)).[2] In regard to the former, the Commissioner is mandated to "exercise the judgment and care under the circumstances then prevailing which an institutional investor of ordinary prudence, discretion and intelligence exercises in the management of large investments entrusted to it, not in regard to speculation but in regard to the permanent disposition of funds, considering the probable safety of capital as well as probable income" (ALASKA STAT. § 14.25.180(C)).

The Commissioner of Revenue is assisted by a portfolio management staff of four and by approximately 13 outside managers including Fred Alger Management, Inc., Invesco Capital Management, Inc., Lehman Management Company, Inc., Citicorp, N.A. (London), Alliance Capital Management Corp., Morgan Guaranty Trust Company, and various insurance companies. A monthly summary of ATRS' investment activities is prepared, which is available to members upon request; and system investment performance is assessed by an outside consultant (Merrill Lynch).

The ATRS is required by law to conduct one or more public hearings annually to discuss proposed changes in the system and to consider and adopt resolutions that might improve the performance of the system (ALASKA

[1] As of June 30, 1984, there were 59 employers in the ATRS. "Employer" means a public school district, the Board of Regents of the University of Alaska, the Department of Education, the National Education Association of Alaska, the Regional Resource Centers or the state legislature with respect to a state legislator who elects membership under ALASKA STAT. § 14.25.040(b) (ALASKA STAT. § 14.25.220(15)). Other public employees are covered by the Alaska Public Employees' Retirement System.

[2] Permissible investments include: insured shares of federally chartered Alaska savings and loan associations; deposits with insured state, national, and mutual savings banks; guaranteed first lien mortgages; notes secured by insured mortgages; FHA guaranteed business and industrial loans; bankers' acceptances; obligations of, or guaranteed by, the United States; corporate debt securities; preferred and common stock; commercial paper; foreign securities and time deposits; and gold bullion (ALASKA STAT. § 14.25.180). The Commissioner has adopted a formal statement of investment policy for ATRS funds.

STAT. § 14.25.035). All other Board meetings are open to the public under the state's government in the sunshine law (ALASKA STATE. § 44.62.310). The Administrator serves as Secretary of the Board and keeps official records of its proceedings (ALASKA STAT. § 14.25.030). System records are available to the public (ALASKA STAT. § 09.25.110) except for information regarding a member's personal or financial data which is protected by regulation (ATRS Regulation 2 AAC 36.820).

The ATRS Board and officers are subject to the conflict of interest provisions of the Alaska Statutes which prohibit any personal benefit from the investment of ATRS funds (ALASKA STAT. § 39.50.010). The state maintains a liability policy to cover the errors and omissions of Board members and employees. Alaska holds accountable any officer or employee handling public funds (ALASKA STAT. § 37.10.030 and ALASKA STAT. § 37.10.040). A person who willfully or knowingly falsifies or permits to be falsified any ATRS record is guilty of a misdemeanor punishable by a $500 fine and/or six months' imprisonment, and forfeits all rights under the Teacher Retirement Chapter (ALASKA STAT. § 14.25.210).

Article XII, § 7 of the Alaska Constitution states that membership in an employee retirement system of the state or its political subdivisions constitutes a contractual relationship. Accrued benefits of such systems may not be diminished or impaired.

# ARIZONA STATE RETIREMENT SYSTEM (ASRS)

Basic Facts:

- Number of active members: 103,889
- Number of retired members: 25,385
- Total assets: $3.2 billion
- Monthly annuity payroll: $9.9 million

The Arizona State Retirement System (ASRS) provides retirement coverage for state employees, teachers, and the employees of political subdivisions throughout the state. The System is administered by a seven-member Board of Trustees, which the Governor appoints subject to Senate confirmation (ARIZ. REV. STAT. ANN. § 38-211 and § 38-742). Four of the Trustees represent the members of the System. Of these, one must be an educator, one an employee of a political subdivision of the state, one a retiree member, and one an employee of the state. Three additional members are appointed to represent the public at large. One of the seven members serves as a member of the Investment Advisory Council. Each Board member must have had at least five years of administrative/management experience. Members serve three-year terms (ARIZ. REV. STAT. ANN. § 38-742) and are eligible for reappointment (ARIZ. REV. STAT. ANN. § 38-742(A)).

The ASRS Board appoints a Director (ARIZ. REV. STAT. ANN. § 38-743.01(A-B)) who administers the program (ARIZ. REV. STAT. ANN. § 38-743.01(C)(1), (3), (4)) except for the management of ASRS's investments. This responsibility is handled by outside investment management, guided by the Investment Advisory Council (IAC)).[1]

ASRS is audited annually by an independent auditor, currently Arthur Andersen & Company. The Arizona Auditor General is also authorized to make an annual audit of the system, the results of which must be transmitted to the Governor and the legislature (ARIZ. REV. STAT. ANN. § 38-743(F)).[2] In addition, ASRS presently retains the Martin E. Segal Company to perform an annual actuarial valuation.

The Board of Trustees is required to submit to the Governor and legislature[3] for each fiscal year, no later than eight months following the close of the fiscal year, an Annual Report of the System's operations (ARIZ. REV. STAT. ANN. § 38-743(D)). The report must include: recommendations for legislative amendments; a report on the actuarial valuation of ASRS's assets and liabilities; investment information; and any other statistical and financial data necessary to understand the operation and status of the plan (ARIZ. REV. STAT. ANN. § 38-743(D)(1)(3) and (4)).

The investment information in the Annual Report includes, for each investment manager, a statement of the realized and unrealized capital gain and loss experience, a statement of the net amount of investment income produced, a summary statement of changes in the investment portfolio and the net costs of all purchases and sales. The report also includes a list of all investments owned, and a balance sheet for the ASRS plan and funds indicating the total rate of return, yield on cost, and the percent of cost to market value of the ASRS plan and system funds (ARIZ. REV. STAT. ANN. § 38-743(D)(2)). Copies of the full report are furnished to all covered employers and employee organizations and are available for public inspection. A comprehensive summary report is distributed to all plan members (ARIZ. REV. STAT. ANN. § 38-743(E)).

ASRS furnishes its members a summary plan description (SPD) in the form of a member handbook, which explains the benefits program in detail. In addition to the member handbook, ASRS publishes a quarterly newsletter and provides statewide, toll free telephone access to the retirement office. Field representatives travel throughout Arizona offering information regarding the system and its benefits.

ASRS is required by state law to furnish each member an account statement showing the status of his account, including the name of his beneficiary(s) (ARIZ. REV. STAT. ANN. § 38-744(B)). Upon application at any time, the Board must furnish information concerning the status of the members' accounts, together with the nature and amount of additional benefits to be obtained from additional contributions. ASRS's members are entitled to appeal to the Board any question of rights, benefits, or obligations, and to receive a hearing thereon (ARIZ. REV. STAT. ANN. § 38-743(C)(1)).[4]

As noted above, ASRS's Investment Advisory Council has overall responsibility for the investment of the system's assets. The IAC consists of five members appointed for two-year terms by the Governor with Senate consent. (An IAC member may serve no more than three consecutive two-year terms.) Each IAC member must have had at least ten years' substantial experience in making investments. The Arizona State Code disqualifies from IAC membership any person who has a financial interest in or who is employed by a dealer in securities, mortgages or real estate investments (ARIZ. REV. STAT. ANN. § 38-743.05(A)).[5] The IAC meets at least quarterly and must meet at least semiannually with each of ASRS's investment managers to review the investment portfolio and make recommendations regard-

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[1] This includes investment of temporary fund surpluses. Surplus monies may be invested only in obligations of the United States Government or agencies whose obligations are guaranteed by the United States Government, commercial paper or bankers' acceptances for a term not to exceed 15 days (ARIZ. REV. STAT. ANN. § 38-743.01(C)(4)(c)).

[2] The Auditor General has not, due to insufficient staff, undertaken an audit of ASRS for a number of years.

[3] The House Government Operations Committee, the Senate Insurance, Retirement and Aging Committee and the Joint Legislative Budget Committee have continuing responsibilities for ASRS.

[4] Statutory law mandates that the Board shall maintain a state employees' personnel records system including each member's records (ARIZ. REV. STAT. ANN. § 38-744(A)).

[5] Members receive no compensation for their work but are compensated for travel expenses (ARIZ. REV. STAT. ANN. § 38-743.05(B)).

ing investment strategy (ARIZ. REV. STAT. ANN. § 38-743.05(C)).

The Investment Advisory Council, with the approval of the ASRS Board, appoints investment managers for the fund's assets,[6] who are appointed for one-year terms (ARIZ. REV. STAT. ANN. § 38-752.01(C)). Each investment manager must have the highest professional and fiduciary recommendations, have not less than five years' experience in handling investments equal to 10 percent of the total ASRS assets per year, and have had responsibility for investment decisionmaking for an entity such as an insurance company investment fund, an investment division of a bank, a mutual fund, an investment organization, a pension fund, or have qualified as a chartered financial analyst, as defined by the Institute of Chartered Financial Analysts (ARIZ. REV. STAT. ANN. § 38-752.01(A)).[7]

The IAC and its investment managers are guided by a "prudent person" standard (ARIZ. REV. STAT. ANN. § 14-7302) and by a statutorily defined list of permissible investments. (See 38.757). These include: bonds, debentures, notes, and other evidences of indebtedness; equipment trust obligations or certificates; preferred or guaranteed stock; nonassessable common stock; term contracts of sale and lease purchase agreements; insured interest bearing savings accounts or certificates of deposit; mutual funds, insurance agency investment funds, commercial paper, and bankers' acceptances; and specified real property. Investment performance is subject to outside evaluation by SEI Funds Evaluation Services and Wilshire Associates.

The Board members and employees of the various entities which administer ASRS are subject to the Arizona ethics and conflict of interest laws. These laws prohibit such persons from participating in any matter involving ASRS in which they or a relative have a substantial interest (ARIZ. REV. STAT. ANN. § 38-503(B)). A substantial interest in any contract, sale, purchase, or service to ASRS must be made known in the official records of the System (ARIZ. REV. STAT. ANN. § 38-503(A)). Any public officer or employee who knowingly, willfully, or intentionally conceals or fails to disclose such substantial interest shall be guilty of a felony and shall be removed from office (ARIZ. REV. STAT. ANN. § 38-506). And a person who knowingly falsifies or permits to be falsified any record of the state retirement system with an intent to defraud the System is also guilty of a felony (ARIZ. REV. STAT. ANN. § 38-763). Each public officer or employee is also covered by a blanket bond in the amount of $100,000. (ARIZ. REV. STAT. ANN. § 38-251).

Both the ASRS Board of Trustees and the Investment Advisory Council are governed by a strict open meetings statute (ARIZ. REV. STAT. ANN. § 38-431). The statute requires advance written notice of meetings, including the specific listing of all agenda items. Minutes must be made available within three working days after each meeting (ARIZ. REV. STAT. ANN. § 38-431.01(D)). Board records and other documents are available under Arizona's Freedom of Information Act (ARIZ. REV. STAT. ANN. § 39-121).[8]

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[6] The current investment managers are: Fiduciary Trust Company, Gardner & Preston Moss, Criterion Capital Management, Wells Fargo Investment Advisors, Invesco Capital Management, Kemper Financial Services, Bernstein-Macaulay and Valley National Bank (the latter for mortgages).

[7] No investment manager may have a direct or indirect interest in making an investment or purchasing annuities from a private insurer or in the gains or profits accruing therefrom, nor may an ASRS investment manager borrow or use system assets as an investment manager, agent, or partner of others, or be an endorser, surety or obligor on ASRS's investments (ARIZ. REV. STAT. ANN. § 38-752.01(D)).

[8] "Public records" are those made by a public officer in pursuance of a duty (Op. Atty. Gen. No. 70-1). "Other matters" may include documents classified as public records by the legislature but that have been received by the Governor in an official capacity; such documents are open unless disclosure would clearly be against the state's best interests (Op. Atty. Gen. No. R75-781, 1976-77, p. 50).

# ARKANSAS TEACHERS' RETIREMENT SYSTEM (ATRS)

Basic Facts:

- Number of active members: 31,925
- Number of benefit recipients: 9,836
- Total assets: $1.022 billion
- Amount of monthly annuity payroll: $45 million

The Arkansas Teachers' Retirement System (ATRS) administers the pension systems for public school employees, certain college employees, and the State Department of Education and its subdivisions.[1] ATRS is managed by a 12-member Board of Trustees (ARK. STAT. ANN. § 80-1438.3.01). The Board membership consists of three state officials who serve ex officio, the Commissioner of Banking, the State Treasurer, and the State Director of Education; six member trustees;[2] and three retirants[3] (ARK. STAT. ANN. § 80-1438.3.01(a-c)). The Board appoints from its members a Chairman and Vice-Chairman, as well as an Executive Director to manage the daily operations of the System (ARK. STAT. ANN. § 80.1438.3.04(a-b)).

ATRS employs Gabriel, Roeder, Smith & Company to conduct annual actuarial valuations of the System (ARK. STAT. ANN. § 80-1438.3.0-4(d)), and is audited annually by the Division of Legislative Audit of the General Assembly (ARK. STAT. ANN. § 80-1438.3.06(f)). The audit reports must contain: a balance sheet; a statement of receipts and disbursements; a statement of investments acquired and disposed during the year; a statement of the rate of investment return from all assets and from each type of investment; the results of the most recent actuarial valuation of the system; and a list of investments made during the year audited that favorably impact the economic condition in the State of Arkansas. A copy of the report is given to the Legislative Council and the Governor (1985 Ark. Acts 412, codified at ARK. STAT. ANN. § 12-3308(a)), and is available for public inspection.

Effective July 1, 1985, a nine-member State Pension Review Board (SPRB) will monitor all public retirement systems and will review all proposed pension legislation (1985 Ark. Acts 359). Board membership will consist of seven gubernatorial appointees — including three persons with experience in the fields of securities investment, pension administration or pension law (none of whom may be members or retirees of the public retirement system), one person experienced in actuarial science, one person with experience in the governmental science field, one active member of a public retirement system, and one person receiving benefits from a public retirement system — and two members of the Joint Legislative Committee on Public Retirement and Social Security Programs (one each from the House and the Senate).[4] In addition, the Board will employ an Executive Director to head its administrative functions.

The SPRB is charged with a broad range of responsibilities that include: monitoring the performance of public retirement systems and of private companies that offer annuities to state employees;[5] conducting studies of potential threats to the actuarial soundness of the public retirement systems that inhibit their ability equitably to distribute benefits; assessing the systems' investment programs; providing technical assistance on pension planning to public retirement systems upon request; reviewing all retirement bills introduced in the General Assembly, and advising the Committee on Public Retirement regarding their soundness; and recommending policies, practices, and legislation to public retirement systems and governmental entities. The Board must also present to the legislature and the Governor, in November of each even-numbered year, a public report explaining its work and findings during the preceding two-year period.

In the Executive Branch, oversight of ATRS is provided by the Department of Finance and Administration. The Department must approve all contracts for investment advice and actuarial services, all purchases, and all expenditures including the salaries of ATRS personnel (1985 Ark. Acts 234, Section 4).

ATRS publishes a summary plan description (SPD) that is updated on a regular basis to reflect major modifications to the plan; the latest revision was completed in 1983. Members receive notices and descriptions of new provisions as they are enacted. State law also requires the Board of Trustees to publish an annual report containing "a financial balance sheet; a statement of income and disbursements; a detailed statement of investments acquired and disposed of during the year, together with a detailed statement of the annual rates of investment income from all assets and from each type of investment; an actuarial balance sheet"; and other data (ARK. STAT. ANN. § 80-1438.3.06(c)). The report is distributed to each employer, the Legislative Council, and the Legislative Audit Committee. Members and the public may obtain copies upon request, either from school system employers or directly from ATRS (*id.*).

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[1] ATRS covers all public school employees except janitors, cafeteria workers, and bus drivers, who are included in the Public Employees' Retirement System (PERS). Furthermore, ATRS benefits only college teachers and administrators who have not elected coverage under TIAA CREF; college employees hired after March 19, 1983 are covered by PERS.

[2] Member trustees must have at least five years of credited service and be active at the beginning of their terms of office. One member trustee is elected from each of four congressional districts by active members. One member, a non-Caucasian is elected by the Arkansas Education Association (AEA), and one member is elected by the classroom teacher members of the AEA. Each member trustee serves a five-year term, except that retirant trustees serve for three years (ARK. STAT. ANN. § 80.1438.3.02).

[3] Retirant trustees are elected by the Arkansas Retired Teachers Association.

[4] Each member will hold office for a staggered six-year term, with the terms of three members expiring on December 31 of each even-numbered year.

[5] The Board, accordingly, is vested with authority to inspect the books, records, and accounts of any public retirement system.

Virtually all ATRS documents are available under Arkansas' Freedom of Information Act (ARK. STAT. ANN. § 12-2803) or by specific provisions applicable to ATRS. Additionally, the meetings of the Board of Trustees and its Investment Advisory Committees are governed by the state government in the sunshine provision (ARK. STAT. ANN. § 12-2801) and are open to the public (ARK. STAT. ANN. § 80-1438.3.05). Pursuant to plan policy, members receive an annual statement of their benefit status. They may appeal adverse benefits decisions by the Board of Trustees pursuant to the Arkansas Administrative Procedures Act (ARK. REV. STAT. §§ 5-7-01 to 5-7-15). ATRS also offers an active outreach and educational program through a field staff and a staff of benefits counselors.

The ATRS Board has responsibility for investing the System's assets with the advice of professional investment counsel (ARK. STAT. ANN. §§ 80-1438.3.04(e), 12-3307.7.09). The current investment counselors are Oppenheimer Capital (equity), and First Commercial Bank of Little Rock (fixed income), which were selected on the basis of competitive bidding (ARK. STAT. ANN. § 12-3307.7.09). The Board's investment decisions are guided by the ERISA "prudent investor" standard (1985 Ark. Acts 412, codified at ARK. STAT. ANN. § 12-3307.7.01), which requires it to exercise "the judgment and care, under the circumstances then prevailing, which an institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large investments entrusted to it, not in regard to speculation but in regard to the permanent disposition of funds, considering probable safety of capital as well as probable income" (1985 Ark. Acts 412, codified at ARK. STAT. ANN. § 12-3307.7.11).[6] The Arkansas Code also encourages investments that contribute to the economic development of the state. Specifically, the Board must seek to invest between five and 10 percent of the ATRS portfolio in Arkansas related investments[7] (1985 Ark. Acts 412, codified at 12-3307.7.14). A written statement of ATRS investment policy is publicly available.

Arkansas statutes prohibit any ATRS trustee, officer or employee from having any direct or indirect interest in any ATRS investment. They also proscribe the use of ATRS assets for unauthorized purposes, and direct those involved with the System not to become an endorser, surety or obligor for monies loaned or borrowed from the System (ARK. STAT. ANN. §§ 80-1441.7.04, 12-3307.7.04).

The Executive Director and all other custodians of ATRS funds are bonded under adequate surety bonds (ARK. STAT. ANN. § 80-1438.3.06(e)). Additionally, a $1 million blanket fidelity bond covers the administrative employees of the System (ARK. STAT. ANN. § 12-3307.7.05). Any person who knowingly falsifies or permits to be falsified any ATRS record in an attempt to defraud the System is guilty of a misdemeanor (ARK. STAT. ANN. § 80-1444.10.04). Moreover, the knowing or willful failure to file any report, or filing of an incomplete or inaccurate report, required by the System is classified as a misdemeanor. Arkansas punishes as malfeasance in office the willful failure to disclose information regarding the retirement system (ARK. STAT. ANN. § 12-3007).

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[6] The State Treasurer is the legal custodian of the securities of ATRS. In lieu of the securities, however, the System may deposit with the Treasurer for safekeeping receipts or evidence of federal bookkeeping entries. The financial institution or depository issuing such safekeeping receipts must file with the Treasurer a letter of the issuer's bonding or insurance company, stating the amount of insurance currently in force covering loss or theft of the securities. Additionally, the Board of Trustees may, if necessary, designate banks, trust companies, or central depositories to act as legal custodian of ATRS securities (1985 Ark. Acts 412, codified at ARK. REV. STAT. § 12-3307.7.07).

[7] These percentages exclude Federal National Mortgage Association investments and Government National Mortgage Association investments. The provision neither limits nor impairs the responsibilities of fiduciaries to follow the prudent investor rule (1985 Ark. Acts 412, codified at 12-3307.7.14).

# STATE TEACHERS' RETIREMENT SYSTEM OF CALIFORNIA (STRSC)

Basic Facts:

- Number of active members: 253,687
- Number of annuitants: 99,619
- Total assets: $12.8 billion
- Amount of monthly annuity payroll: $71.2 million

State Teachers' Retirement System of California (STRSC), although organized as a unit of the State and Consumer Services Agency in the Executive Branch of state government, is a special trust fund over which the Teachers' Retirement Board has exclusive control (CAL. EDUC. CODE 22001, 22221, and 22300 (DEERING)). All public school teachers in California belong to STRSC, with the exception of certain teachers who are members of the San Francisco Employees' Retirement System.

STRSC currently retains Peat, Marwick, Mitchell & Co. as its independent auditor and Milliman & Robertson, Inc. as its actuary. Audits are conducted annually (CAL. EDUC. CODE § 22220 (DEERING)) and actuarial valuations every two years.[1] The plan is also subject to annual review by the State Controller, who reviews the work of the independent auditor and actuary and, in addition, conducts its own review.

The California legislature takes an active role in regard to STRSC; during the last eight years it enacted 173 bills affecting the system. Bills affecting the state retirement system are channeled through standing committees in each house of the legislature — the Public Employment and Retirement Committees. These committees work closely with the Senate Appropriations Committee and the Public Investments, Finance and Bonded Indebtedness Committee in the Assembly. All of the legislative committees are supported by the Office of the Legislative Analyst which provides detailed analyses of legislation, and both initiates and responds to requests for studies of the effectiveness of programs currently in operation.

Oversight of STRSC is provided by the Joint Committee on Public Pension Fund Investments. This Committee is charged with determining the most effective ways to increase the yield on public pension fund investments, improving the responsibilities of corporations to their institutional shareholders, and evaluating portfolio potential.[2]

STRSC's 11-person Teachers' Retirement Board[3] is responsible for the investment of the System's assets. It has contracted with Wilshire Associates to act as investment advisor.[4] The Board appoints a Chief Executive Officer to manage the operations of the System. The Board controls the administration and monies of STRSC, makes rules, establishes investment policy,[5] and ensures that benefits paid are in accordance with state and federal law.

STRSC publishes a summary plan description (SPD) and continuously modifies the plan description material to ensure its currency. STRSC also publishes a highly detailed comprehensive annual report that includes a full print-out of all STRSC investments (CAL. EDUC. CODE §§ 22218 and 22308 (DEERING)).[6] The annual report is distributed to the Governor, the Legislature, the County Superintendent of Schools, the Library Distribution Act mailing list, and the heads of constituent organizations. It is available to members upon request.

STRSC is also required to file with the legislature an annual report on the erosion of the purchasing power of

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[1] State law requires the STRSC to be audited annually by an independent public accountant (CAL. EDUC. CODE § 22220 and GOV'T CODE § 7504 (DEERING)).

[2] Recently, Governor Deukmejian signed into law three measures increasing legislative oversight of STRSC. One bill, AB-2870, requires the System to submit more detailed and frequent reports to the legislature regarding investment operations. Another, AB-2874, mandates that STRSC give the legislature an analysis of the asset and liability implications of legislation affecting the System. A third law, AB-2873, requires the System to enlist the services of a person knowledgeable in corporate management issues to monitor corporate activities and advise it regarding how to vote on stockholdings. AB-2873 is aimed particularly at preventing takeover abuses by corporate management, which might dramatically diminish the value of stock held by the System. A fourth new law requires the Joint Committee on Pension Fund Investments, the State Treasurer, and the Public Employees' Retirement System (PERS) jointly to hire a contractor to evaluate custodian services to both PERS and STRSC.

[3] The members are: an official of a life insurance company, an officer of a bank or a savings and loan institution, a public representative, a member of the governing board of a school district, a system retirant, and three System members (at least two of whom must be classroom teachers). Ex-officio members include the Superintendent of Public Instruction, the State Controller, and the State Treasurer (CAL. EDUC. CODE § 22200 (DEERING)). The Governor appoints the non-ex-officio members for staggered four-year terms. The System retirant and members are selected from lists submitted by the Superintendent of Public Instruction. The appointments of the life insurance official, bank or savings and loan officials, and public representative require Senate confirmation.

[4] Wilshire Associates was selected on a competitive basis based on its recommendations regarding long-range investment management, asset allocation, risk measurement, asset attribution, and modeling as to long-range effects of investment decisions.

[5] STRSC investment policy is currently contained in the Board's Investment Resolution adopted October 19, 1984. The Resolution sets the guidelines pursuant to which investments must be made. It is available to the public upon request.

[6] The annual report must include: (a) the annual audit (CAL. EDUC. CODE § 22220 (DEERING)); (b) a consultant's review, a summary of changes in actuarial assumptions, a review of the System's asset mix strategy, a market review of the economic and financial environment surrounding investments, and a summary of the System's investment strategy; (c) a description of all STRSC investments and a summary of major changes therein; (d) extensive information regarding rate of return by asset type; (e) a transaction summary reviewing the System's custodial relationship and cash management, purchases, sales, turnover, private placements, soft dollar purchases, and transaction costs; (f) a report on STRSC outside investment advisors and managers, and any participation in corporate meetings or shareholder voting; (g) a statement and analysis of actuarial gains and losses; (h) a detailed discussion of the portfolio; (i) a performance review of asset allocation, equities due to market timing, sector selection, stock selection and trading, fixed income instruments due to interest rate anticipation skills, credit analysis, sector trading and sapping, and value added over indexing; and further information (CAL. EDUC. CODE § 22218.6 (DEERING)).

System allowances and annual and quarterly reports[7] detailing the System's assets. From time to time, the legislature may also request additional reports. During 1984, for example, the legislature received reports on the effect on employer contribution rates of the difference between the actual and expected rates of retirement and disability. The State Controller also publishes an annual report on the financial condition of STRSC and the other state and local retirement systems.

By state law, all data related to the board's operations are available to the public, except for member records and Investment Committee proceedings (CAL. EDUC. CODE § 22221 (DEERING)); STRSC board meetings are open to the public (CAL. GOV'T CODE § 6250 (DEERING)). STRSC also undertakes a major public information effort that can be grouped into three categories. First, with respect to members and beneficiaries, STRSC conducts personal retirement interviews in Sacramento and Santa Ana. It also sponsors statewide pre-retirement workshops on the retirement program and process. Informational brochures and a semi-annual STRSC bulletin (containing a summary annual report) apprise participants of changes in the System. Second, regarding employers, STRSC publishes Administrative Directives for policy and procedural issues, and an Employer Information Circular for informational items. The System maintains an Advisory Committee to discuss issues of joint concern with representatives from the County Superintendents' Association. Moreover, STRSC staff participate in joint county business meetings to discuss matters of concern. The System also conducts an Employer Information Institute for two days, six times per year, to assist employers in understanding STRSC so that they can provide guidance to member employees on benefit and other processes. Third, for employee organizations, the System prepares the STRSC Update, a series of articles for dissemination through employee organization publications, and provides workshops to inform organizational staff.

STRSC members are mailed statements of their individual account status on an annual basis. The statements identify members' current years of service credit, contributions and interest, and the total amounts accrued to date. They also define procedures to follow in the event of discrepant data, and project retirement benefits at age 60 for members nearing retirement age. Additionally, monthly warrant stubs itemize the allowance payable and deductions. Retirants in their second or third years of retirement receive advance notice of their potential income tax liability. STRSC is currently considering supplementing this information with more definite projections of potential tax liabilities.

Any person dissatisfied with the action of the STRSC Chief Executive Officer with respect to the payment of allowances, benefits, or refunds or regarding crediting service or the correction of records, has the right to appeal such action to the Board by filing a written notice of appeal and the reasons therefor within 90 days of the mailing of the Chief Executive Officer's decision (CAL. ADMIN. CODE § 20520 (DEERING)). Upon receipt of an appeal, the Board may hold a hearing in accordance with the Administrative Procedures Act (CAL. GOV'T CODE § 11500 (DEERING)); CAL. EDUC. CODE § 22217 (DEERING)). Members are routinely informed of how to initiate this appeal procedure.

In terms of investment policy, STRSC specifies permissible investments, which are generally those permitted state savings and loan institutions (CAL. EDUC. CODE §§ 22222 (DEERING)); and, in addition, imposes requirements for diversification in investment (investments in common stock may not exceed certain levels, nor may investments in individual companies, etc. (CAL. EDUC. CODE §§ 22305 and 22213 (DEERING))). Under recently passed legislation, California requires public pension plans to invest at least 25 percent of all new funds available in each fiscal year in mortgages on California residential real estate (CAL. FIN. CODE § 13000 (DEERING)). Public plans can also — as of January 1983 — acquire employer-owned real estate. However, California prohibits any acquisition on behalf of the plan of any employer security or loan.

The California Code establishes the prudent expert rule as the fiduciary standard governing Board investment decisions (Cal. Const. Section 17, Art. XVI); it also prohibits insider transactions. (CAL. EDUC. CODE §§ 22225.5 and 22228.9 (DEERING)).

STRSC Board members are each bonded for $10 million and are governed by the terms of the state's Political Reform Act. Under the latter, each public board or agency must adopt a conflict of interest code; STRSC adopted its code in 1978. Among other things, it requires all executive, legal and investment staff to disclose the sources of their income.

[7] Quarterly reports must: (a) discuss the portfolio in light of (1) concentration, current holdings at cost and market value, of equities, (2) concentration, current holdings at cost and market value, of fixed income instruments, (3) current holdings at cost and market value of real estate equities and mortgages, (4) options and forward commitments, and (5) cash and cash equivalents; and (b) disclose by type of asset (1) time- and dollar-weighted return on a five-, three-, two-, and one-year basis, and (2) portfolio return comparisons (CAL. EDUC. CODE § 22218.7 (DEERING)).

# PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION OF COLORADO (PERA)

Basic Facts:

- Number of active members: 99,114
- Number of benefit recipients: 24,791
- Total assets: $4.46 billion
- Amount of monthly annuity payroll: $16 million

The Public Employees' Retirement Association of Colorado (PERA) covers state employees, judges, and some municipal employees.[1] PERA is audited annually by Arthur Andersen & Company; an actuarial valuation is performed every year by Gabriel, Roeder, Smith & Co.[2] In addition, PERA is subject to oversight by the Legislative Audit Committee (COLO. REV. STAT. §§ 2-3-101(3), 24-51-103(3) and 24-51-105(3)),[3] which, in addition to reviewing PERA's funding status and investment performance, calls on outside consultants to assess the condition of the fund.

PERA is administered by a 15-person board whose members are trustees of the retirement fund. Eleven trustees are elected by plan members, two are elected by retired plan members and the remaining two positions are filled by the State Treasurer and the State Auditor. Of the 11 trustees elected by members, five are school employees elected by the members of the school employee division of the plan (COLO. REV. STAT. § 24-51-103).

PERA has an investment staff of seven people who make investment decisions subject to Board approval. PERA also relies on Bankers Trust Company of New York and Provident National Bank of Philadelphia for investment advice.

PERA publishes a summary plan description (SPD) that is available to the public and that is updated regularly to reflect major modifications. PERA also publishes an Annual Financial Report every August that is required by law to be submitted to the Governor and the General Assembly (COLO. REV. STAT. § 24-51-103); it is also distributed to the membership. A transactional summary detailing specific dealings with PERA assets and a statement of investment policy are included in the Annual Financial Report. Each January, PERA publishes a special report for its membership that updates the Annual Financial Report. This report includes a brief description of new rules and regulations promulgated by the Board, PERA-proposed legislative reforms, a brief description of actuarial funding status, background information on the nomination process for Board membership, a description of the PERA investment portfolio showing how the fund performed, and a listing of dates and places for regional meetings where members can learn more about PERA.

In addition to the statutorily mandated reports described above, Colorado has a government in the sunshine law, passed in 1972, that makes all PERA board meetings (except some investment meetings or disability retirement appeals involving confidential medical records) open to the public (COLO. REV. STAT. § 24-6-402). Also, an FOIA law gives the public access to records of PERA's activities (COLO. REV. STAT. § 24-72-203). Virtually all of the fund's activities are open to public scrutiny.

PERA conducts an extensive outreach program and publishes a broad range of pamphlets and reports that are available to the public upon request. These reports include "Benefits in Brief," a short description of PERA benefits, "Disability Retirement," a description of disability benefits, "Know Your Colorado Retirement," a 40-page booklet summarizing the complete PERA program, "Law," a 96-page booklet of the statutes governing PERA; "Rules and Regulations," a 67-page booklet detailing the regulations promulgated under the pension laws; the Annual Financial Report that explains the investment and actuarial policies followed by PERA, and numerous other publications. The System conducts annual member benefit seminars in 24 locations throughout the state.

In addition, PERA gives each member an annual statement of his or her account that includes: the member's estimated service credit, accrued balance as of the preceding year-end, beneficiary and optional program life insurance information, estimated dates for earliest retirement under reduced and regular retirement plans, and estimates of the amounts that would be received under each of those options. Any person adversely affected by a decision of the Retirement Board is entitled to an administrative review (PERA Rules & Regulations No. 50).

The PERA Board of Trustees employs an in-house staff and has contracts with Bankers Trust Company and Provident National Bank for investment advice. It uses the investment performance analysis of Merrill Lynch. The PERA Board of Trustees is required to invest solely for the benefit of the plan (COLO. REV. STAT. § 24-51-107(1)). When investing the plan's funds, the trustees are held to a "prudent man" standard. The scope of this standard of care is described as "the judgment and care, under the circumstances then prevailing, which men of prudence, discretion, and intelligence exercise in the management of the property of another, not in regard to speculation but in regard to the permanent disposition of funds, considering the probable income as well as the probable safety of capital" (COLO. REV. STAT. § 15-1-304).

In addition to the "prudent man" standard of care, Colorado statutes specify that no more than 50 percent of the book value of the PERA funds can be invested in

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[1] The Denver Public School System's employees are enrolled in a separate plan subject to control by the Denver School Board. Firemen and policemen for the most part are enrolled in the Fire and Police Pension Association (FPPA), established by the legislature in 1978.

[2] Under state law, PERA is required to submit the annual audit to the Governor and the legislature; the annual actuarial valuation is sent to the Legislative Audit Committee and the Joint Budget Committee.

[3] Committee membership consists of two members of each party from each house of the legislature.

corporate stocks or instruments convertible into stock and PERA cannot own more than seven percent of the outstanding stock of any corporation (COLO. REV. STAT. § 24-51-107).

The State Treasurer acts as PERA custodian and holds all assets on behalf of the fund pursuant to the instructions of the trustees (COLO. REV. STAT. § 24-51-107).

PERA board members, as well as members of the staff, have a fidelity bond of $5 million per year (total aggregate coverage per year). Retirement board members as well as staff members also have a fiduciary liability and errors and omission policy of $30 million aggregate coverage per year.

# CONNECTICUT TEACHERS' RETIREMENT SYSTEM (CTRS)

Basic Facts:

- Number of active members: 39,000
- Number of benefit recipients: 10,937
- Total assets: $1.9 billion
- Amount of monthly annuity payroll: $10.5 million

The Connecticut Teachers' Retirement System (CTRS) is managed by the 11-member Teachers' Retirement Board.[1] This Board administers benefits but does not control the investment of CTRS assets. This function is performed by the State Treasurer (CONN. GEN. STAT. § 10-183). The Appropriations Committees of both houses of the legislature have responsibility for all public pension matters.

The CTRS fund is audited annually by the State Auditor of Public Accounts. An actuarial valuation of the fund's assets and liabilities is performed by the enrolled actuarial firm of Meidinger, Inc. at least every two years as required by Connecticut law (CONN. GEN. STAT. § 10-1831). Meidinger, Inc. also furnishes the Board the analyses required to determine the level of annual funding required to maintain CTRS on an actuarial reserve basis. The actuarial reports are distributed to the Chairpersons of the Appropriations Committees, the State Treasurer, the Office of Fiscal Analysis, the Office of Policy Management, and all CTRS Board members. They are also available to the public upon request.

In investing CTRS's funds,[2] the State Treasurer is mandated to invest that portion of the funds not required for current disbursements in accordance with the laws governing the investment of savings bank funds or, when deemed prudent, in accordance with the laws governing the investment of trust funds (CONN. GEN. STAT. § 10-183m). These laws encourage diversification in investments and prohibit self dealing; they generally prohibit the investment of funds in unproductive assets, limit the level of investment in certain assets[3] *and* require that the investments be prudent. In addition, the Treasurer is specifically prohibited from investing more than 50 percent of the book value of CTRS funds in common stock and is required to consider the effect of any investment on foreign and national policies (CONN. GEN. STAT. § 3-13d). In making investment decisions, the Treasurer is assisted by an Investment Advisory Council.[4] The Council has formulated a statement of investment policy and, together with the State Auditor of Public Accounts, monitors the performance of the System's investment portfolio.

No later than the third Wednesday of each July, the State Treasurer must file with the State Insurance Commissioner and the Secretary of the CTRS a sworn statement reflecting the condition of the CTRS fund as of June 30th and showing all of the financial transactions conducted for the fund during the past year (CONN. GEN. STAT. § 10-183m(e)). Based on this information and its own records, CTRS prepares an annual report for the Governor providing detailed information on the membership, retirements, withdrawals, investments, incomes and expenditures of the CTRS. CTRS has adopted Statement #6 of the National Council on Government Accounting to govern the contents of its annual report. Members may obtain copies of the report upon request. Moreover, the Teachers' Retirement Board annually provides an administrative summary report to be included in a volume published by the State of Connecticut on all state agencies. The report includes legislative changes in the plan enacted during the year under review, a breakdown of all income and disbursements from CTRS funds, and varied statistical information on the membership.

Each CTRS member receives a summary plan description (SPD) which is updated periodically to include changes in the plan. Complete copies of the CTRS enabling legislation and regulations are available upon request from CTRS headquarters; they can also be reviewed in any public library. Additionally, each participant is sent an annual statement of account showing credited service, contributions and interest, account balance, beneficiaries of record, projected normal retirement benefits, and explanatory material. Any member may appeal to the Board for reconsideration of a decision affecting that member (CONN. GEN. STAT. § 10-183y). And CTRS conducts an active member information program that includes group workshops (30-40 per year), pre-retirement counseling and seminars on retirement options (health, leisure time, benefits, etc.). CTRS newsletters discussing benefits and plan performance are published three to four times a year.[5]

CTRS is subject to the Connecticut open meeting laws (CONN. GEN. STAT. § 1-21), and any person seeking additional information about CTRS or its administration

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[1] The members of the Teacher Retirement Board are: the Insurance Commissioner, the Commissioner on Aging, the Commissioner of Education, four CTRS participants elected by the members, and four independent public members appointed by the Governor (CONN. GEN. STAT. § 10-1831, as amended by 1984 Conn. Acts 207, effective July 1, 1985). The Act insures that one of the four elected teacher members must be a retired teacher.

[2] The State Treasurer is protected by a $2 million bond.

[3] For example, limitations based on a percentage of total assets are placed on investments in state and local government obligations, telephone company bonds, general corporate bonds, stocks and loans (CONN. GEN. STAT. § 36-94). Except as specifically authorized by statute, loans for trustees, officers and employees are prohibited (CONN. GEN. STAT. § 36-101a.

[4] The Investment Advisory Council, in addition to the Treasurer, includes the Secretary of the Office of Policy and Management and five members of the general public with experience in investments (CONN. GEN. STAT. § 3-13b).

[5] In situations where benefits are denied or benefit levels disputed, local employers are responsible for notifying CTRS members of their appeal rights.

may obtain access to the fund's records under Connecticut's public access to records law (CONN. GEN. STAT. § 1-19).[6]

Connecticut has a strong ethics in government law under which an intentional violation is a crime punishable by fine and/or imprisonment. Removal from office and other disciplinary action are also available sanctions. Public officials and state employees, including those associated with CTRS, are prohibited from having any direct or indirect interest in, or engaging in, any business, transaction, employment or professional activity that substantially conflicts with the obligation to act in the public interest. They are also prohibited from seeking financial gain through the use of their public office or of confidential information obtained through that office (CONN. GEN. STAT. § 1-84). The trustees and the employees of the CTRS are covered by a $2 million bond, which is carried on all state officials and employees.

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[6] Under this law, the public also has access to the State Treasurer's financial records pertaining to CTRS.

# DELAWARE STATE EMPLOYEES' PENSION PLAN (DSEPP)

Basic Facts:

- Number of active members: 26,000
- Number of retired members: 9,000
- Total assets: $900 million
- Amount of monthly annuity payroll: $3.5 million

The Delaware State Employees' Pension Plan (DSEPP) is a consolidated retirement system covering all full-time and regular part-time state employees[1] (DEL. CODE ANN. tit. 29, § 5501). DSEPP is administered by a seven-person Board of Pension Trustees (DEL. CODE ANN. tit. 29, § 8308), a division of the State Department of Finance[2] (DEL. CODE ANN. tit. 29, § 8301). The Board is comprised of the Secretary of Finance and the Director of the State Personnel Commission (ex officio), and five members appointed by the Governor with the consent of the Senate, not more than three of whom may be affiliated with the same political party. The appointed trustees serve staggered, four-year terms (DEL. CODE ANN. tit. 29, § 8308(d)).

DSEPP is audited annually by Deloitte, Haskins & Sells; actuarial valuations are conducted biennially by the Martin E. Segal Company (DEL. CODE ANN. tit. 29, § 5544(d)). As noted above, its performance is continuously monitored by the State Department of Finance.

DSEPP publishes a summary plan description (SPD) that is updated quadrennially. Participants are notified of major plan modifications as they occur. State law requires the Board also to publish an annual report showing the assets, liabilities, cash and accumulations, and administration expenses of the fund (DEL. CODE ANN. tit. 29, § 8308(c)(3)). The report is distributed to the Governor and the legislature (DEL. CODE ANN. tit. 29, § 8313) and to members through their employers. The system conducts an active education/information program that includes group and individual retirement counseling by 22 field officers and a toll-free "800" number for telephone inquiries.

Virtually all of the plan's documents are available under Delaware's Freedom of Information Act (DEL. CODE ANN. tit. 29, § 10002); the meetings of the board of trustees are governed by the state's government in the sunshine provision and are open to the public (DEL. CODE ANN. tit. 29, § 10004(a)). Any person denied benefits or otherwise aggrieved by a decision or action of the DSEPP is entitled to an administrative appeal before the Board of Pension Trustees (DEL. CODE ANN. tit. 29, § 8308(b)(3)).

The Board is responsible for maintaining and investing the pension funds under its control and management (DEL. CODE ANN. tit. 29, § 8308(c)(4)). A formal statement of its investment policy is available to the public. Board policy requires the trustees to follow the prudent man rule in investing the system's assets. The trustees contract with 20 money management firms and use the consulting services of Ashford Capital Management, Inc. Performance of the DSEPP portfolio is monitored by Gentry Associates. The current asset mix for the fund is 29 percent stocks, 14 percent real estate, 25 percent bonds, 15 percent investment contracts, 16 percent cash and equivalents and one percent venture capital.

The Delaware Code contains strong conflict of interest and ethics provisions applicable to DSEPP's trustees and employees, prohibiting self-dealing in the investments of the system (DEL. CODE ANN. tit. 29, § 5804). Violation of these provisions carries fines and prison sentences administered according to the discretion of the state courts (DEL. CODE ANN. tit. 29, § 5804(h)).

Delaware law prohibits the enactment of laws establishing special pensions (whether service pensions, disability pensions, survivor's pensions or otherwise) unless accompanied by appropriations providing for their full actuarial funding (DEL. CODE ANN. tit. 79, § 5545).

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[1] "Employees" excludes University of Delaware personnel covered by the Teachers' Insurance and Annuity Association Retirement Plan (DEL. CODE ANN. tit. 29, § 5505).

[2] The Department of Finance is headed by a Secretary, appointed by the Governor with the advice and consent of the Senate, to supervise, direct, and account for the Department and its subdivisions (DEL. CODE ANN. tit. 29, § 8303). The Secretary is qualified by training and experience, and is bonded for $125,000 (DEL. CODE ANN. tit. 29, § 8302A).

# FLORIDA RETIREMENT SYSTEM (FRS)[1]

Basic Facts:

- Number of active members: 410,000
- Number of annuitants: 78,600
- Total assets: $7.4 billion
- Amount of monthly annuity payroll: $34.5 million

Florida Retirement System (FRS) is a part of the Division of Retirement of the State Department of Administration. The Division is responsible for administering the trust and distributing benefits, but has no responsibility for investments, which are handled by the State Board of Administration (SBA).[2] The SBA is a state agency which maintains its own professional investment staff.

The Division of Retirement is audited on an annual basis by the State Auditor General (FLA. STAT. § 215.44(6)); it retains Tillinghast, Nelson & Warren, an independent actuary, to perform actuarial valuations and to determine costs of proposed legislative changes (FLA. STAT. § 112.658). Valuations are completed every two years (FLA. STAT. §§ 112.63 and 121.35). Legislative oversight is performed by the House Committee on Retirement, Personnel and Collective Bargaining and the Senate Committee on Personnel, Retirement and Collective Bargaining. Florida is currently considering the creation of a Joint Legislative Committee on Retirement. The legislature has enacted numerous pieces of legislation affecting FRS since 1978.

FRS publishes a summary plan description (SPD) that is updated annually and distributed to all plan members. In addition, FRS publishes an annual report; the legislature receives copies of the FRS Annual Report, as well as an Annual Investment Report summarizing and analyzing the performance of all investments (FLA. STAT. § 214.44(5)) and a report to the Bureau of Local Retirement Systems.[3]

Florida has a Freedom of Information Act, which makes the records of the Department of Administration, as well as of the Board of Administration and the State Auditor, available to the public (FLA. STAT. § 119.07); it also has a comprehensive sunshine act that applies to the meetings of all boards and commissions (FLA. STAT. § 286.011). In addition, FRS conducts an active public information program that includes the presentation of seminars on benefits to employer agencies, numerous brochures, including the SPD, that elaborate upon system administration and benefits, a newsletter and other publications. FRS makes information regarding individual retirement credits available upon request, and retirees receive quarterly statements showing the benefits paid to them for the previous three months, as well as a W2-P each July.[4]

In carrying out its investment responsibilities, the State Board of Administration (SBA) is assisted by a six-person Investment Advisory Council which makes recommendations regarding investment policy, strategy, and procedures. Its members are appointed by the Board, subject to Senate confirmation, to three-year terms (FLA. STAT. § 215.444). The Board also retains outside investment advisors to provide regular asset allocation advice (FLA. STAT. § 215.44(2)(b)).

SBA investments are governed by a comprehensive statutory scheme for insuring the soundness of state as well as local pension plans.[5] State law specifies, among other things, that the entity administering the fund holds them "in trust" (FLA. STAT. §§ 112.66(8) and 121.045). Further, the fiduciary named in the plan as having authority to control its operations "shall discharge his duties with respect to a plan solely in the interest of the participants and beneficiaries for the exclusive purpose of providing benefits to the participants and their beneficiaries and defraying reasonable expenses of administering the plan" (FLA. STAT. § 112.656). The investments must be made with the purpose of maximizing the benefits to the plan participants, giving consideration to the safety and diversification of the investments, and are to be consistent with the skill and judgment of a prudent man in similar circumstances (FLA. STAT. §§ 215.47(7) and 581.11). The State Retirement Director is designated as the Administrator-Fiduciary of the Florida Retirement System (FLA. STAT. § 121.025).

FRS retains SEI Funds Evaluation Services to provide a quarterly performance report on the total fund and on each investment manager employed by the System.[6] Furthermore, each investment manager is required to subscribe to the INDATA portfolio reporting service which furnishes the FRS Board with weekly evaluation

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[1] In 1970, Florida merged its teacher retirement system with the other state systems for public employees; 43.5% of its active members are school district employees.

[2] The Board is composed of the Governor, as Chairman, the Treasurer and the Comptroller (FLA. STAT. § 215.44, incorporated by reference in the 1968 Constitution in Article XII, Section 9(c), and Article IX, Section 16 of the 1985 Constitution).

[3] Local pension systems within the state are regulated by FLA. STAT. § 112.6, the "Florida Protection of Public Employees Retirement Benefits Act," which established the Bureau of Local Retirement Systems within the Division of Retirement to oversee actuarial valuations and impact statements of local retirement plans.

[4] Florida law specifies that there shall be timely written notice given to any member or beneficiary whose claim for benefits under the terms of his retirement system or plan has been denied, setting forth the specific reasons for such denial. Unless otherwise provided by law, the terms of the retirement system or plan shall provide for a full and fair review in those cases where a member or beneficiary has had his claim to benefits denied (FLA. STAT. § 122.66(6)). A special State Retirement Commission has been created to review FRS's denials of claims for disability and special risk benefits (firemen and law enforcement officials). Denials of other benefits are reviewed by a state hearing officer appointed by the Division of Administrative Hearings.

[5] Local plans are monitored by and subject to the supervision of the Department of Administration (FLA. STAT. § 121.135).

[6] Performance reports monitor investment performance, commitment to asset categories, rates of return, diversification, market capitalization, dividend yield, price/earning ratio, beta, market/book ratio, growth rate, manager style, cash return, buy/hold analysis, and other technical processes.

reports and monthly and quarterly summaries.[7] A statement of FRS investment policy is contained at FLA. ADMIN. CODE Chapter 19-4 under the title "Rules and Regulations Governing the Investment Policies and Procedures of the State Board of Administration." As part of the Administrative Code, it is readily available to the public.

In addition to these general standards, Florida law specifies the manner in which retirement funds must be financed, sets limitations on the range of permissible investments and defines the manner in which benefits must be related to funding (See Chapter 112 and Chapter 215 Florida Statutes and Article X, Section 14 Florida Constitution).[8] The Florida code limits the acquisition of employer securities and imposes liability on trustees for breach of fiduciary duties.[9] Further, the state board members and employees responsible for investing FRS's assets are subject to the state Code of Ethics and are each bonded for $500,000.

All benefits of the Florida Retirement System are guaranteed by FLA. STAT. § 121.30, which states that the right of employees to accrued benefits shall be nonforfeitable.

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[7] INDATA's reports and summaries include total market value of the portfolio, current yield, year to date gain/loss, time weighted return rate versus the S&P and Dow Jones Industrial Averages, beta, $R^2$, industry/sector comparison, weekly transactions, and pricing.

[8] The Florida Constitution specifies that: "A governmental unit responsible for any retirement or pension system supported in whole or in part by public funds shall not . . . provide any increase in the benefits to the members or beneficiaries of such system unless such unit has made or concurrently makes provision for the funding of the increase in benefits on a sound actuarial basis."

[9] FLA. STAT. § 112.317 provides penalties for ". . . violation of any provision of this part, including, but not limited to, any failure to file any disclosures required by this part or violation of any standard of conduct imposed by this part . . . ."

# TEACHERS' RETIREMENT SYSTEM OF GEORGIA (TRSG)

Basic Facts:

- Number of active members: 105,000
- Number of benefit recipients: 23,000
- Total assets: $3.75 billion
- Amount of monthly annuity payroll: $15.7 million

The Teachers' Retirement System of Georgia (TRSG) is administered by a 10-member board of trustees,[1] and is subject to oversight by the House and Senate Retirement Committees. TRSG is audited annually by the accounting firm of Touche, Ross & Co. An annual actuarial evaluation is performed by the George B. Buck Company and is filed with the TRSG Board and the State Auditor.[2] Georgia law requires that an actuarial examination of the mortality, service and compensation experience of the system be performed at least once every five years. The 1983 Public Retirement System Standards Act requires that all public retirement systems in Georgia be funded on an actuarially sound basis (GA. CODE § 4-20-1).

The TRSG board of trustees is required by law to prepare an annual report showing the condition of the system and reporting the fiscal transactions conducted by the system during the preceding year (GA. CODE § 47-3-26). The report also contains a summary of the annual actuarial valuation. Copies of the annual report are distributed to the Governor, all members of the General Assembly and all school systems. Retirees are sent a card notifying them of the publication of the report and giving them the opportunity to order a copy.

TRSG provides each participant with a summary plan description, "TRS Facts," that discusses the performance of TRSG and the rights and benefits of participants. The laws and regulations governing TRSG operations are available in any Georgia public library (and are distributed to participants upon request).

TRSG participants receive an annual statement of account showing the contributions and interest credited and any payments made during the fiscal year. The statement also lists the beneficiaries designated by the participant, as they appear in TRSG records. A detailed statement of each member's creditable service is included.

TRSG board of trustees' meetings are open to the public, and board records are available for public inspection (GA. CODE § 47-3-26(f)). TRSG maintains a field staff of four traveling counselors, plus a manager, who brief school employers and employees on their benefit entitlements and on the general performance of the system.

The TRSG Board of Trustees, through its Investment Committee, invests the fund assets subject to the restrictions imposed on domestic life insurers and provided that no more than 50 percent of the system's assets are invested in equities (GA. CODE § 47-3-27). In general, the trustees are permitted to invest TRSG funds in dividend or interest-paying securities and real property held for lease (GA. CODE § 33-11-3 and GA. CODE § 33-11-30). In addition to the limitation on the total amount that may be invested in equities, the trustees are not permitted to invest more than 10 percent of the system's assets in any single property or entity (certain governmental obligations excepted) and the TRSG may not hold more than 10 percent of the voting stock of any corporation without the consent of the Insurance Commissioner (GA. CODE § 33-11-5). A comprehensive statement of TRSG's investment policy is available to the public upon request.

The First National Bank of Atlanta is TRSG's servicing agent and recommends investments to the Investment Committee. TRSG relies on Merrill Lynch, Pierce Fenner & Smith for investment performance assessment and draws on the services of three outside advisor/managers in addition to an in-house professional staff of five.

When investing on behalf of the TRSG, the trustees are held to a prudent person standard as a matter of TRSG policy. No security or investment can be purchased for a price above its market value and no trustee or employee of the board may have any personal interest, whether direct, indirect or as agent for another, in the gains or profits from any investment made by the board (GA. CODE § 33-11-3 and GA. CODE § 47-3-27).

The Executive Secretary-Treasurer of TRSG is bonded and all board members are subject to criminal penalties should they abuse their trust (GA. CODE § 47-3-141).

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[1] The TRSG board is composed of: the State Auditor, the Insurance Commissioner, the Director of the Fiscal Division of the State Department of Administrative Services, one school administrator and one classroom teacher and one public school employee appointed by the Governor, one employee of the Board of Regents of the University System of Georgia appointed by the Board of Regents, one retired school teacher elected by the other nine trustees, one member appointed by the Governor, and one person, not a member of the retirement system, with experience in investments who is elected by the other nine trustees (GA. CODE § 47-3-21).

[2] The actuarial report is also available to the public upon request.

# HAWAII EMPLOYEES' RETIREMENT SYSTEM (HERS)

Basic Facts:

- Number of active members: 45,191
- Number of benefit recipients: 15,548
- Total assets: $2.2 billion
- Monthly annuity payroll: $10.5 million

The Hawaii Employees' Retirement System (HERS) provides a mandatory retirement plan (HAWAII REV. STAT. § 88-42) for the employees[1] of the State of Hawaii (HAWAII REV. STAT. § 88-21). HERS is audited annually by Main Hurdman; an actuarial valuation is performed at least quinquenially by the Martin Segal Company (HAWAII REV. STAT. § 88-105), the technical advisor to the System's Board of Trustees (HAWAII REV. STAT. § 88-30). The Public Employment and Government Operations Committee in the legislature is responsible for all legislation affecting the System.

HERS's seven-person Board of Trustees administers the benefits under the fund. The Board includes: the State Director of Finance (ex officio); three HERS members, two of whom are general employees and one of whom is a teacher (elected by the membership); and three citizens not HERS members, one of whom is an officer of a bank doing business in Hawaii (appointed by the Governor with the advice and consent of the Senate). The trustees serve six-year terms (HAWAII REV. STAT. § 88-24).[2]

HERS publishes for its members a summary plan description (SPD) that is updated annually. Participants receive notices of major plan modifications as they occur. HERS also publishes an annual report showing in detail the fiscal transactions of the System for the year, the amount of accumulated cash and securities in the System, and an actuarial valuation of the assets and liabilities of the System. Each odd-numbered year, the report also must include a comparison of the investment performance of the System with the investment performance of other pubic employees' retirement systems with similar investment authority, and a comparison of the funded ratio at the fiscal year's end with the funded ratios of retirement funds in other jurisdictions (HAWAII REV. STAT. § 88-103). The Board submits the reports to the Governor and furnishes copies to the heads of the various state and local departments for distribution to the membership (*id.*).

The minutes (HAWAII REV. STAT. § 88-103) and records (HAWAII REV. STAT. § 92-50) as well as the meetings (HAWAII REV. STAT. § 92-2) of the HERS Board are open to the public. HERS also conducts an extensive outreach program that includes group seminars throughout the state and individual counseling at the plan's headquarters in Honolulu and at county offices. In addition, each member receives an annual statement of account showing his accumulated contributions to HERS (HAWAII REV. STAT. § 88-112). Any person denied benefits or otherwise aggrieved by a decision of the Board is entitled to an administrative review.

The members of the HERS Board are designated by law as trustees of the System, and are responsible for investing the system's assets (HAWAII REV. STAT. § 88-110). The Board contracts with 16 money managers[3] and retains SEI Funds Evaluation Services and Callan Associates to perform portfolio performance analyses. Hawaii's statutes set forth a lengthy, detailed list of permissible investments for HERS. These include: specified real estate loans and mortgages; government obligations of various classes; qualified corporate obligations; preferred and common stocks (up to 40 percent of the book value of total HERS investments); obligations eligible by law for purchase in the open market by federal reserve banks; obligations issued or guaranteed by the International Bank for Reconstruction and Development, by the Inter-American Development Bank or by the Asian Development Bank; and insurance company obligations (HAWAII REV. STAT. § 88-119). In regard to 10 percent of the System's assets, the Board is given greater flexibility and may invest in other securities and stocks provided that, in its informed opinion, such investments are "prudent" (*id.*).

The State Director of Finance acts as HERS custodian and holds all assets on behalf of the fund pursuant to the instructions of the trustees (HAWAII REV. STAT. § 88-111). HERS trustees and employees may have no direct interest in the gains or profits of any investment made by the Board; may not receive any emolument for their services as trustees; may not use the moneys of the System except as authorized by the Board; and may not become endorsers, sureties, or obligors for moneys loaned by or borrowed from the board (HAWAII REV. STAT. § 88-33).

The State of Hawaii guarantees HERS in the following fashion:

> Regular interest charges payable, the creation and maintenance of reserves in the pension accumulation fund and the maintenance of annuity reserves

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[1] "Employee" means "any employee or officer of the state or any county, including inspectors, principals, teachers and special teachers, regularly employed in the public schools, cafeteria managers and cafeteria workers, apprentices and on-the-job trainees . . ., members of the legislature and other elective officers, legislative employees who are employed on a full-time basis during and between sessions, probationary and provisional employees, any employee of [Hawaii's] educational non-profit public corporation . . ., [and] per diem employees" (HAWAII REV. STAT. § 88-21). Per diem employees and members of the legislature, however, may opt out of the System (*id.*).

[2] Each trustee takes an oath of office that he will diligently and honestly administer the affairs of the Board, and that he will not knowingly violate or willingly permit to be violated any of the provisions of law applicable to the System (HAWAII REV. STAT. § 88-27).

[3] Among these firms are: Bernstein-Macaulay; Delaware Investment Advisers; Eagle Management; Fayez Sarofim & Co.; Lehman Management Co.; Loomis Sayles & Co., Inc.; Pacific Investment Management Co.; Scudder, Stevens & Clark, Inc.; Security Pacific Investment Managers; Wentworth, Hauser and Violich; Daiwa International Capital Management Corp.; and Nomura Capital Management, Inc.

and pension reserves as provided for the payment of all pensions, annuities, retirement allowances, refunds and other benefits . . ., and all expenses in connection with the administration and operation of the system are made obligations of the State and of the respective counties (HAWAII REV. STAT. § 88-127).

# PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)

Basic Facts:

- Number of active members: 42,250
- Number of annuitants: 13,559
- Total assets: $685.4 million
- Monthly retired payroll: $4.8 million

The Public Employee Retirement System of Idaho (PERSI) is a joint contributory, defined benefit system which mandates participation by eligible state employees, school district employees (including teachers) and full-time paid firemen (IDAHO CODE, TITLE 59, CHAPTER 13). Political subdivisions may elect to participate, and it is conservatively estimated that over 95% of all eligible public employees in Idaho are active members of PERSI.

PERSI is administered by a five-member board, each appointed for a five-year term. By statute, two seats must be filled by active system members with at least 10 years of credited service. The other three are appointed by the Governor from the public at large (IDAHO CODE § 59-1326). Oversight of PERSI is conducted in the Idaho Legislature by the State Affairs Committees of both houses.

The Idaho State Code requires an annual actuarial valuation of the system, from which the Board must establish the employer contribution rate needed to keep the system properly funded. Idaho law also requires an experience study at least every three years to determine the suitability of the actuarial tables used by the system (IDAHO CODE § 59-1327(4)). The Board currently employs Milliman & Robertson as its enrolled actuary.

PERSI employs Touche Ross & Company to audit its records on an annual basis and to prepare an annual financial report for the system. The financial report is included as part of PERSI's annual report of its activities to the Governor. The Governor's report is distributed to all state legislators, all employer members, and other interested parties; it is made available to members of the public upon request.

PERSI publishes a summary plan description (SPD) and related information of interest to members in a member handbook. The handbooks are distributed to employers in sufficient quantities to provide a copy for each active member and new employee. The handbook is revised as necessary to reflect legislative amendments that affect the plan.

A member account showing employee contributions received for the year, total accumulated contributions, interest credited, salary reported for each of the past five years, retirement allowance accrued to date, estimate of service retirement allowance, explanation of retirement options and beneficiary(s) of record is furnished each active member on an annual basis. It is furnished to inactive members on request. PERSI maintains an active education/ information network through field service offices in Boise, Coeur d'Alene, and Pocatello, Idaho. Field representatives travel the state to attend employer and employee seminars. Staff members also counsel members on an individual basis. The System distributes periodic memoranda to employers as a means of disseminating information to the membership.

By statute, the Retirement Board appoints funding agents to invest the funds and assets within limits and controls set by the Board (IDAHO CODE § 59-1328). The statutes provide that a funding agent must be a bank, trust company, legal reserve life insurance company, or combinations thereof (IDAHO CODE § 59-1302(19)).[1] The funding agent is held to the Prudent Man Investment Rule (IDAHO CODE § 68-502), and is guided by investment policies established by the Retirement Board (IDAHO CODE § 59-1328). The Board has published a Statement of Objectives and Investment Policies for the Retirement Fund, which it revises periodically and makes available to the public. Among other things, the Statement requires each funding agent to maintain current statements of its own investment goals, objectives, and strategies for the PERSI portfolio that it invests. Subject to the limitations set forth in the Board's policies, fiduciaries are authorized to acquire and retain every kind of property and investment (IDAHO CODE § 68-502).

Idaho statutes provide a simplified procedure for any person to appeal a denial of benefits by the Retirement Board and then obtain a hearing if desired (IDAHO CODE § 59-1329).[2] Idaho has a government in the sunshine law (IDAHO CODE § 67-2341) that requires all PERSI meetings to be open, and a FOIA law that gives the public access to the records of PERSI and its Retirement Board (IDAHO CODE § 9-301), except the records dealing with individual accounts. All PERSI Board members and employees are bonded under a state surety bond; the Board and its staff are further covered by a $20 million fiduciary liability insurance policy.

Finally, the Idaho Constitution (Art. 7, § 10) makes profiting from the use of government funds, including pension system funds, a felony. Offenders are subject to criminal penalties.

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[1] The current funding agents include: Capital Trust Company, E. F. Hutton Trust Company, Equitable Life Assurance Society of the U.S., First Interstate Bank, First Security Bank, Idaho Bank & Trust Company, Idaho First National Bank and Prudential Insurance Company of America. The Board employs SEI Funds Evaluation Services to assess the performance of the investment portfolio.

[2] The aggrieved party files with the Executive Director a notice for hearing, which sets forth the grounds for appeal (IDAHO CODE § 59-1329(2)). The Board then sets and conducts a *de novo* and summary hearing (IDAHO CODE § 59-1329(3)) which decides the case by a majority vote (IDAHO CODE § 59-1329(5)). The complainant may appeal the Board's decision within 30 days (IDAHO CODE § 59-1329(7)).

# ILLINOIS TEACHER RETIREMENT SYSTEM (ITRS)

Basic Facts:

- Number of active members: 99,500
- Number of annuitants: 38,533
- Total assets: $3.72 billion
- Amount of monthly annuity payroll: $24.3 million

Illinois Teacher Retirement System (ITRS), the retirement system for all full- and permanent part-time employees of Illinois public schools,[1] is managed by a nine-person Board of Trustees.[2] Audits are performed annually by the State Auditor General and by Ernst & Whinney. An actuarial valuation of assets and liabilities and a quadrennial actuarial review of experience is performed by A. S. Hansen, Inc. (ILL. REV. STAT. ch. 108-1/2, § 16-161). In addition, ITRS is subject to review by an active legislative oversight commission, the Illinois Economic and Fiscal Commission[3] (ILL. REV. STAT. ch. 108-1/2, § 22-801) and by the Auditor General of the State of Illinois. In the past four years, the state legislature has enacted major pension reform legislation, including a law adopting the ERISA fiduciary standards and a law strengthening accountability standards for local pension funds.

ITRS publishes a summary plan description (SPD) of its pension program that is available to the public. The SPD is completely revised every two years and is updated annually via an appendix to the Annual Report to reflect major plan modifications as they occur. ITRS's Annual Report, which is required by ILL. REV. STAT. ch. 108-1/2, § 16-175, is a highly detailed report of financial performance. It contains an actuarial balance sheet, statements of revenues and expenses and changes in net assets, a full actuarial report, ten-year summaries of revenues and expenses, statistical information on ITRS membership, investment analyses (represented by the Standard & Poor's 500 Index, the Solomon Bond Index, and the Shearson Lehman Government/Corporate Bond Index), a listing of ITRS's portfolio, and other information. The report is filed with the General Assembly, and a summary thereof is distributed to ITRS members in newsletter form. Members may obtain copies of the complete Annual Financial Report at local school district offices.

ITRS is required by law to make copies of the SPD, the annual report, trust agreements, contracts and other instruments under which the plan operates available to the public (ILL. REV. STAT. ch. 108-1/2, § 16-174, ch. 116, § 43.6); it is also required to conduct open meetings (Illinois Sunshine Act — ILL. REV. STAT. ch. 102, § 41.42). Participants and beneficiaries are provided annual written statements of account showing their years of service credit, contributions and interest, history of earnings, and designated beneficiary (ILL. REV. STAT. ch. 108-1/2, § 16-189). Any person denied benefits or otherwise aggrieved by a decision of the staff of the ITRS has the right to a hearing before the Board of Trustees. Appeals subsequently may be taken to the Circuit Courts of Illinois (ILL. REV. STAT. ch. 108-1/2, § 16-200). ITRS also has a field staff that travels continuously around the state to advise teachers regarding their retirement rights; it maintains a field office and distributes a newsletter to all members — active and retired — in an effort to keep members informed about their benefits.

The investment functions for ITRS are performed by the State Board of Investments (SBI) with the assistance of 20 private sector professional investment managers. The present asset mix includes common stocks, corporate obligations, United States Government and agency obligations, real estate (roughly 8% of the portfolio), money market instruments (under 5%), Canadian obligations (1%), and limited venture capital investments (.2%). Investment performance is monitored by Merrill Lynch and SEI Funds Evaluation Services. A formal statement of ITRS investment policy is publicly available. In investing ITRS assets, the SBI is governed by the ERISA prudent expert standard (ILL. REV. STAT. ch. 108-1/2, §§ 1-109-1, 1-10-92); in addition, ITRS trustees are required to "use reasonable care to prevent any other trustee from committing a breach of duty."[4] State laws generally prohibit insider transactions, permitting ITRS to deal with interested parties only if the transaction is for adequate consideration and is conducted at arm's length (ILL. REV. STAT. ch. 108-1/2, § 1-110).

Illinois also has an Executive Order (No. 3) establishing a Code of Ethics that applies to individuals in the Executive Branch of government (all Governor appointees plus staff making salaries in excess of $20,000 per year). Further, the state code prohibits trustees and/or employees from self-dealing. It specifies:

> "No trustee or employee of the Board (Board of Trustees of the Teachers Retirement System of the State of Illinois) shall have any interest in any gains or profits of any investment made by the Board, or as such receive any pay or emolument for his services. No trustee or employee of the Board shall, directly or indirectly, for himself or as an agent,

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[1] Illinois also has a State Universities Retirement System with 41,319 active members, 10,565 annuitants, total assets of $1.3 billion and a monthly annuity payroll of $5.7 million. School districts in Illinois cities with populations of 500,000 or more are not covered by ITRS; Chicago is the only city falling within this category and it has its own plan.

[2] The Board consists of the Superintendent of Public Instruction, four persons named by the Governor who are not members of the ITRS, and four persons elected from the system's contributing members (ILL. REV. STAT. ch. 108-1/2, § 16-163).

[3] The Commission reviews all pension legislation, and prepares pension impact notes and cost estimates for consideration in the General Assembly. The Commission is composed of 24 legislators, divided evenly between the political parties.

[4] Illinois law permits ITRS to acquire employer securities up to 10% of plan assets (ILL. REV. STAT. ch. 108-1/2, § 1-111).

> in any manner use such gains or profits except to make current and necessary payments authorized by the Board. No trustee or employee of the Board shall become an endorser or surety or in any manner an obligor for monies loaned or borrowed from the Board" (ILL. REV. STAT. ch. 108-1/2, § 16-191).

Additionally, the Illinois Governmental Ethics Act (ILL. REV. STAT. ch. 127, § 601-101) requires disclosure of personal economic interest on the part of ITRS trustees. Penalties for failure to file a statement of economic interest include fines and forfeiture of office. A false statement in this context constitutes a Class A misdemeanor. Finally, the state criminal code provides criminal penalties for official misconduct (ILL. REV. STAT. ch. 38, § 33-1), including bribery (Class 2 felony), failure to report a bribe (Class A misdemeanor), and official misconduct (Class 3 felony). ITRS is barred from making loans to state or local government entities at below market rates. It is a misdemeanor for any person, member, trustee or employee of ITRS to falsify records or otherwise attempt to defraud the system (ILL. REV. STAT. ch. 108-1/2, § 16-198). All ITRS personnel are covered under a $10 million blanket bond.

The State of Illinois guarantees the retirement fund in Article 13, Section 5 of its Constitution, which provides: "Membership in any pension or retirement system of the State, any unit of local government or school district, or any agency or instrumentality thereof, shall be an enforceable contractual relationship, the benefits of which shall not be diminished or impaired."

# INDIANA STATE TEACHERS' RETIREMENT FUND (ISTRF)

Basic Facts:

- Number of active members: 62,870
- Number of benefit recipients: 24,766
- Total assets: $969 million
- Amount of monthly annuity payroll: $12 million

The Indiana State Teachers' Retirement Fund (ISTRF) is administered by a Board of Trustees composed of five members appointed by the Governor. At least two trustees must be ISTRF members (IND. CODE § 21-6.1-3-1). The other three trustees have financial expertise but this is not required by the Code.[1] The Executive Secretary of the ISTRF is appointed by the Governor and must be an ISTRF member (IND. CODE § 21-6.1-3-5).

In 1983, the General Assembly created a Pension Management Oversight Commission to oversee all state public retirement funds. Committee members, consisting of six elected representatives and two citizens, currently are engaged in studying members' rights and alternative investment options.[2]

The ISTRF is audited annually by the State Board of Accounts. The ISTRF also employs Gabriel, Roeder, Smith & Co. to evaluate the actuarial soundness of the system. An actuarial evaluation of the lives of retired members is performed annually; those of active members are reviewed every two years. These reviews are conducted to fulfill the Board's statutory mandate to analyze annually the fund's income and expenses, its actuarial condition, reserve accounts, and investments as well as any other information necessary to interpret the condition of the ISTRF and to evaluate its administration (IND. CODE § 21-6.1-3-6.1). These reports are distributed to the Governor, the State Board of Accounts, the Budget Office, and the Legislative Services (IND. CODE § 21-6.1-3-6.1). They are available, upon request, to the public (IND. CODE § 5-14-1-3).

In addition, the ISTRF Board of Trustees is required by statute to make quarterly reports to the State Auditor covering the financial activities undertaken during that period. These reports are also available to the public (*id.*). Any person may attend the meetings of the Board under the provisions of Indiana's Anti-Secrecy Act (IND. CODE § 5-14-1-4).

The ISTRF prepares an annual financial report that summarizes the condition and activities of the fund during the preceding year. The report includes a statement of assets and liabilities together with a statement of changes that have occurred in net assets during the year, a statement comparing the fund's assets and liabilities at year end with those at the end of the preceding year, a statement of the funding policy in effect during the year (and disclosing any changes in that policy), a description of material commitments and contingent liabilities, a statement of receipts and disbursements broken out by general sources and applications, and a list of all leases, loans and other fixed income obligations that were in default at year end. The annual report is presented to the Governor, and is available to the public upon request. A synopsis of the report is distributed to all ISTRF members (IND. CODE § 21-6.1-3-6).

ISTRF also publishes a members' handbook that serves as a summary plan description (SPD). Additional materials detail the various retirement options available under ISTRF. ISTRF staff also present periodic seminars at schools throughout the state, where the rights and benefits of members are discussed. ISTRF members receive an annual statement of their benefit status including credited service, contributions and interest, and account balance. Members may appeal any adverse benefits decision to the Board of Trustees. Appeals may be taken further to a hearing officer and, ultimately , to the courts (IND. CODE § 4-22-1).

The ISTRF Board is responsible for the management and investment of ISTRF property and funds (IND. CODE § 21-6.1-3-8). ISTRF has an investment analyst on staff who monitors and coordinates the activities of outside investment managers. These include American Fletcher National Bank, Indiana National Bank, Bank of New York, Alliance Capital and Baxter and Hoops. Indiana National Bank serves as master custodian of ISTRF funds and issues quarterly reports to the Board of Trustees on the investment performance of all outside investment managers. The Board measures portfolio performance by various indices. The System has developed a formal statement of investment policy, which is available to the public upon request. Indiana has a constitutional prohibition against purchasing equities, so that the fund is limited to fixed income investments (Art. II, § 12).[3] In making investments, ISTRF Board members are governed by the general standards that govern the performance of trustees under Indiana law (IND. CODE § 21-6.1-3-9). These standards establish a prudent person rule and specifically authorize investments in bonds, debentures, and other corporate obligations, stocks, preferred or common, and real estate mortgages. (IND. CODE 30-4-3-3).

In addition to this general fiduciary standard, Indiana law prohibits any trustee or employee of the Board from having any direct interest in the income of any investment made by the Board or receiving any emolument for

[1] Currently, one trustee is a banker, another the President of a Savings and Loan Association, and the third a retired Indiana Bell executive with pension expertise.

[2] Senate Bill No. 350 recently extended the Commission until January 1, 1988. The bill increases Commission membership to 12: four senators and two financial experts appointed by the President Pro-Tempore of the Senate, and four representatives and two financial experts appointed by the Speaker of the House of Representatives. The duties of the Commission are defined to include: studying the investment and management practices of the Boards of public retirement funds; determining what constitutes adequate wage replacement levels at retirement for public employees; studying the impact of federal law and proposals concerning retirement; and studying methods and levels of funding for public retirement funds.

[3] A constitutional amendment to remove this restriction is being considered.

services connected with any investment made by the Board. Further, no trustee or Board employee is permitted to become an obligor for any money loaned by or borrowed from the fund (IND. CODE § 21-6.1-3-18). Reckless violations of fiduciary or investment standards is a misdemeanor.

ISTRF trustees and staff are subject to criminal penalties for the misuse of state funds (IND. CODE § 30-4-4-3-3). The Board is covered by a $125,000 bond. The Executive Secretary is bonded for $60,000. All other fund employees are covered by a $5,000 bond (IND. CODE § 21-6.1-3-6).

# IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (IPERS)

Basic Facts:

- Number of active members: 130,000
- Number of annuitants: 41,000
- Total assets: $2.4 billion
- Amount of monthly annuity payroll: $8.8 million

The Iowa Public Employees' Retirement System (IPERS) is administered by the Iowa Department of Job Service (IOWA CODE § 97B.3).[1] The Director of the Department is appointed by the Governor to oversee all IPERS operations. The State Treasurer is the custodian and trustee of the IPERS Fund, and is responsible for all investments (IOWA CODE § 97B.7.2). IPERS is audited annually by the State Auditor. The Department of Job Service employs Milliman & Robertson of Omaha, Nebraska as its actuary and technical advisor (IOWA CODE § 97B.59).[2] Iowa law requires a biennial actuarial investigation of all experience under the retirement system, pursuant to which the Department determines the condition of the System and reports to the General Assembly its findings and recommendations (IOWA CODE § 97B.60). The actuary also prepares an annual actuarial valuation of the System's assets and liabilities, as well as a statement of the amounts to be contributed by employers and a statement of receipts and disbursements of the System. The Department certifies these findings to the Governor (IOWA CODE § 97B.61). Oversight of IPERS is provided in the legislature by the Joint State Government Committee.

The Department is required by law to submit to the Governor an annual report covering the administration and operation of IPERS during the preceding fiscal year (IOWA CODE § 97B.4).[3] This report contains a summary of the annual actuarial valuation as well as a range of other items. Copies of the annual report are filed with the presiding officer of each house of the legislature and with the State Government Committees. It is also available to all plan participants (IOWA CODE § 97B.57). IPERS also provides its members with a summary plan description (SPD) that is updated at least every two years and more frequently when required by statutory changes. The laws that define the plan are available in all public libraries. All meetings of the bodies administering IPERS are open (IOWA CODE § 28A.2) unless closed sessions are expressly permitted by law (IOWA CODE § 28A.3). Minutes of the meetings are open to public inspection under the Iowa Examination of Public Records Law (IOWA CODE § 28A.3).

The Appropriations Committees and State Government Committees in the legislature review IPERS and all legislation concerning retirement. For the last 25 years, an interim study committee has met between legislative sessions to review actuarial reports, consider benefits changes, set contribution rates, and suggest changes in the System.

IPERS members receive an annual statement of account which contains the amount of accumulated contributions and benefit credits to date. Upon request by a member, an estimate of credits which should accrue as of projected individual retirement dates is provided (IOWA CODE § 97B.18). In addition, employers must furnish each employee with a written statement showing the total wages paid to that employee, the period covered by the statement, and the amount of contribution required with respect to wages paid (IOWA CODE § 97B.12). IPERS personnel also conduct pre-retirement seminars throughout the state. The System furnishes informational newsletters and leaflets to employers for distribution to the membership.

An IPERS member may file an administrative appeal from any adverse decision by the Department (IOWA CODE § 97B.16); judicial review of the administrative ruling is also available under the Iowa Administrative Procedure Act[4] (IOWA CODE § 97B.29).

The State Treasurer invests the funds of IPERS subject to statutory guidelines and restrictions by the Department of Job Service and with the advice of a seven-member Advisory Investment Board (AIB) (IOWA CODE § 97B.7.d). In the investment of the fund, the Department is subject to Iowa's newly enacted "prudent person" rule (IOWA CODE § 97B.7.b, established July, 1985) which requires "the judgment and care, under the circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs" (*id.*). IPERS has a written investment policy which is reviewed and revised annually and is availble to the public.

The AIB consists of seven members. Five[5] are appointed by the Governor to serve along with a senator and a representative chosen respectively by the President of the Senate and the Speaker of the House.[6] The State Treasurer is also assisted by outside equity and

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[1] The purposes of the System are described in IOWA CODE § 97B.27. Membership in the System is mandatory for all classified public employees and publicly-elected officials of the state and its political subdivisions (IOWA CODE § 97B.42).

[2] The actuary, and all other firms and persons serving the Department are selected and appointed "on the basis of competency and fitness for the position to be filled" (IOWA CODE § 97B.5).

[3] The Department also annually recommends amendments to the laws governing the retirement system (IOWA CODE § 97B.4). Notices to participants of major plan modifications are mailed as they occur.

[4] IOWA CODE § 17 A.1.

[5] The five members selected by the Governor include: an executive of a domestic life insurance company (Robb Kelley), an executive of a state or national bank operating in Iowa (Donald E. Snyder), an executive of a major industrial corporation in Iowa (presently vacant), and two active members of the System (Beverly Anderson and Anita E. Seitsinger) (IOWA CODE § 97B.8).

[6] The senator and representative members, as well as the two active System members appointed by the Governor, are ex-officio members of the AIB (IOWA CODE § 97 B.8). The current legislative members are Senator Charles Bruner and Representative Joseph Gruhn.

bond managers retained by IPERS. The former are Alliance and Capital Guardian and the latter is The Boston Company. Several additional managers have submitted formal bids and are undergoing a screening process by IPERS with the assistance of Wilshire Associates, the System's investment performance analyst. All outside investment managers must be subject to reporting to the Securities and Exchange Commission as Investment Counselors.

Iowa law prohibits the Department of Job Service from employing any person who is an officer or committee member of any political party organization or who holds or is a candidate for any elective public office. The Department has discretion to bond any person handling monies or signing checks for IPERS (IOWA CODE § 97B.5). And all parties are subject to criminal penalties for any fraud upon the System (IOWA CODE § 97B.40).

Finally, to the extent of the funds in the retirement system, no legislative action shall repudiate the amount of benefits which at the time of such action shall have accrued to any member of the System (IOWA CODE § 97B.65).

# KANSAS PUBLIC EMPLOYEES' RETIREMENT SYSTEM (KPERS)

Basic Facts:

- Number of active members: 103,327
- Number of benefit recipients: 32,408
- Total assets: $2.1 billion
- Amount of monthly annuity payroll: $6.807 million

Kansas Public Employees' Retirement Systems (KPERS) is an umbrella organization that administers four statewide coverage groups, including employees of the public school system (KAN. STAT. ANN. § 72-4901), through a single fund. KPERS also administers in excess of 30 local plans.[1] KPERS is directed by a seven-member Board of Trustees appointed by the Governor subject to confirmation by the State Senate (KAN. STAT. ANN. § 74-4905). Board members are generally chosen for their financial expertise. The day-to-day management of the fund is handled by an executive secretary hired by the Board (KAN. STAT. ANN. § 74-4905). Responsibility for KPERS in the legislature lies with the Ways and Means Committees of both houses and with the Pensions, Investments and Benefits Committee in the House of Representatives. The Kansas legislature has enacted a number of major reforms affecting the System over the last eight years.

KPERS is audited annually by the accounting firm of Peat, Marwick, Mitchell & Co. An actuarial valuation of the fund's reserves and liabilities and a determination of the necessary contribution level is performed annually by the Martin E. Segal Company. In addition to the annual review of reserves and liabilities, the Segal Company performs a general actuarial investigation of each of the KPERS component systems at least once every three years (KAN. STAT. ANN. § 74-4908). This investigation consists of an analysis of the actuarial experience under the system and includes reviews of mortality, retirement, turnover and interest assumptions compared to emerging experience. The Segal Company also makes recommendations to the Board of Trustees to maintain or modify the existing actuarial assumptions.

Copies of the auditor's report and the actuary's annual evaluation are included in the annual report which is prepared by the Board of Trustees and submitted to: the Governor, the Chairperson of the Legislative Coordinating Council, the Secretary of the Senate, the Chief Clerk of the House of Representatives and all plan members pursuant to KAN. STAT. ANN. § 74-4907(2) and KAN. STAT. ANN. § 74-4910(9). The KPERS annual report has been recognized on four occasions by the Municipal Finance Officers Association for its comprehensiveness.[2] The annual report is submitted to the Governor, the designated agents of all participating employers, and to specified individuals in the Kansas Legislature (KAN. STAT. ANN. § 74-4097). KPERS is also required to make a special report to the legislature based on the actuary's triennial review (KAN. STAT. ANN. § 74-4920(8)). This report is available to the public.

KPERS provides each member an annual statement of account which includes account balance, yearly personal contributions and interest, credited service, total years of participating service, projected monthly benefits at retirement, expected monthly benefits under various retirement options, death benefits, disability allowances, designated beneficiary, and explanatory material (KAN. STAT. ANN. § 74-4909(8)). In addition, KPERS publishes a summary plan description (SPD) in the form of an Employee Information Manual, and brochures dealing with specific issues, such as, "Should I Invest or Withdraw," "So You Think You Want An Option," and "Membership and Service Credit." These materials are supplemented by newsletters and an active field services program. The field service personnel meet with members throughout the state to discuss the performance of the KPERS retirement systems and to answer questions regarding individual rights and benefits under the KPERS. Individual members are routinely informed of their right to appeal decisions of the Board regarding benefits (KAN. STAT. ANN. § 74-4904(2)(a)).

Under Kansas law, the KPERS Board of Trustees is responsible for investing all of the fund's cash not required for current payments (KAN. STAT. ANN. § 74-4910(7)). Investment decisions are governed by KAN. STAT. ANN. § 74-4921. This statute requires the trustees to put the KPERS funds to their most productive use subject to a standard of care and judgment which "men of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital." State law limits the total investment in common stock to 50 percent of the total book value of the fund.[3] In determining its investment strategy, the Board is required to retain qualified investment counselors (KAN. STAT. ANN. § 74-4908 and KAN. STAT. ANN. § 74-4921(7)(b)). The current counselors include: Robert C. Brown & Company, Capital Supervisors, Investment and Capital

[1] The other covered systems are the Kansas Police and Firemen Retirement System, Kansas Retirement System for Judges and the annuitants of the Kansas School Retirement Systems which is a closed group. The Governor and the Director of the Division of Budget are required to include in the annual budget request the state's obligation under the Retirement Act, as certified by KPERS; the legislature must make allowances based upon that request and certification (KAN. STAT. ANN. § 74-4920(2)). Each local legislature must likewise allocate an amount sufficient to satisfy its obligation as certified by the KPERS (KAN. STAT. ANN. § 74-4920(3)). The local plans are reviewed annually by the KPERS actuary, and its findings are submitted to the legislature (KAN. STAT. ANN. § 12-5001).

[2] This Certificate of Conformance is given for substantial conformance to standards promulgated by the Municipal Finance Officers of America and the National Council on Governmental Accounting for governmental accounting, auditing and financing reportings. Only 10 other retirement systems have received this award.

[3] The investment policy adopted by the Board of Trustees has established as a long-term goal that the asset mix of the retirement system will be, at market value, 55 percent fixed income and 45 percent equities.

Management, Investment Management Group, Reimer & Koger, Pilgrim, Baxter, Hoyt & Greig and Provident Investment Council.[4] KPERS' investment custodian is Commerce Bank & Trust (KAN. STAT. ANN. § 74-4921(8)). The KPERS Board has adopted a formalized investment policy that it circulates to all the investment managers and makes available to the public upon request. The Board prepares monthly summaries of its investment activities, which are available to the public. An annual evaluation of investment performance is conducted by Callan Associates, Inc.[5] (KAN. STAT. ANN. §§ 74-4921(9), (10)).

Kansas law requires that all meetings of the Board of Trustees be open to the public (KAN. STAT. ANN. § 74-4909(4)). Records of all board proceedings must be maintained and made available for public inspection (KAN. STAT. ANN. § 74-4909(2)). Access to these records is also governed by the Open Records Act contained at KAN. STAT. ANN. § 45-201 which makes the records of governmental agencies available to public inspection.

The trustees and employees of the KPERS are subject to the Governmental Ethics Act (KAN. STAT. ANN. § 46-215) and to the conflict of interest provisions of the Kansas Code which restrict their receipt of any personal benefit from the investments of the KPERS funds (KAN. STAT. ANN. § 75-4301). Kansas has a Misuse of Public Funds law, a violation of which is a Class D felony (KAN. STAT. ANN. § 21-3910), and an official misconduct provision carrying Class A misdemeanor penalties of one year imprisonment and/or a $2,500 fine (KAN. STAT. ANN. § 74-4904(a)(a)). Both trustees and staff are bonded under a $250,000 fidelity bond.

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[4] In selecting investment counselors, the Trustees discuss with Callan Associates (the Board's investment analyst) the condition of the asset mix, the projected cash flow, and the present investment managers to determine the type of investment manager that needs to be added. The Board finalizes its decision by interviewing nominated firms.

[5] Included in each annual report is a transactional summary of investment activities, which is available to the public. A supplementary schedule to the financial section of the report shows assets under management by each investment management firm and fees paid to them. There is also included a schedule showing the amounts of any brokerage commissions paid by KPERS.

# TEACHERS' RETIREMENT SYSTEM OF THE STATE OF KENTUCKY (TRSKY)

Basic Facts:

- Number of active members: 43,246
- Number of annuitants: 16,787
- Total assets: $1.77 billion
- Amount of monthly annuity payroll: $10.8 million

The Teachers' Retirement System of the State of Kentucky (TRSKY) is an "independent agency and instrumentality of the Commonwealth" (KY. REV. STAT. § 161.230) administered by a nine-member Board of Trustees.[1] Legislative issues affecting TRSKY are addressed by the Appropriations and Revenue Committees and the Education Committees of the legislature.[2] The System is audited annually by the independent accounting firm of Charles T. Mitchell & Co., and an actuarial valuation of the system is performed every two years by George B. Buck, Consulting Actuaries, Inc. (KY. REV. STAT. §§ 161.370 and 161.400). The actuary also performs an overall investigation of the actuarial assumptions and experience of the system at least once every six years (KY. REV. STAT. § 161.400). Copies of all audit and actuarial reports are forwarded to the Governor and the Legislative Research Commission by the Board of Trustees. In addition, state law provides that copies of the audit results must be made conveniently available to members and annuitants of the system for inspection (KY. REV. STAT. §§ 161.370 and 161.400). A summary of the actuarial report is included in the Annual Report.

TRSKY is required by state law to publish on or before January 1 of each year an annual report providing an account of the operation of the system and including the fiscal transactions of the preceding year, the amount of accumulated cash and securities, a balance sheet showing the financial condition of the system, and a summary of the actuarial report[3] (KY. REV. STAT. § 161.320). Copies of the Annual Report are given to: the Governor, the State Auditor, the Chairpersons of the Education and Appropriations and Revenue Committees of both Houses, the Legislative Research Commission, the Kentucky Education Association, the Kentucky Retired Teachers' Association, the Kentucky Administrators' Association, the Kentucky School Board Association, all participating agencies (schools, universities, etc.) and their libraries. Copies are also available to all members and annuitants upon request.

TRSKY publishes and provides to all active contributing members of the system a summary plan description (SPD). Annuitants also receive a description of the plan that explains their rights and benefits (KY. REV. STAT. § 161.580). Members of the system are notified of major plan modifications as they occur. In addition, each plan member receives an annual statement of account showing the status of his individual account (KY. REV. STAT. § 161.580). TRSKY participants are given a right to appeal any denial of benefits. This right is spelled out in the SPD as required by statute (KY. REV. STAT. § 161.580(3)(i)).

Additional information about the TRSKY and its operations may be obtained by reviewing the records of the Board of Trustees' proceedings, which are open to public inspection under the Kentucky Freedom of Information Act (KY. REV. STAT. §§ 61.872 and 61.884)[4] and the Kentucky Open Meetings Law (KY. REV. STAT. § 61.805).

The fund sends out newsletters quarterly to all active and retired members. Members of the TRSKY staff, on request, visit school districts or retired members' organizations to give seminars; they also participate in workshops put on by teachers' organizations and retired members' organizations across the state.

The Board of Trustees has full responsibility and power over the investment of TRSKY funds. The Board is assisted by an Investment Committee (which consists of two members of the Board of Trustees plus the Executive Secretary) and a two-person in-house investment staff. All investment transactions are incorporated into the quarterly minutes of the Board of Trustees and TRSKY's annual investment report, which are available for public review. TRSKY's quarterly newsletters to all members also include a summary of investment activities for the quarter. The Board also employs outside investment counselors (Todd Investment Advisors and Evaluation Capital Management, Inc.),[5] and enlists SEI Funds Evaluation Services and Merrill Lynch to assess investment performance.

In discharging its investment duties, the TRSKY Board is governed by an ERISA-type prudent expert standard, that is, investment decisions must be solely in the interests of the members and annuitants of the system and

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[1] The Board members include: the Superintendent of Public Instruction, the State Treasurer, four teacher trustees, one retired teacher trustee, and two trustees who are not members of the teaching profession. With the exception of the two ex-officio trustees, all of the trustees are elected by the members and annuitants of the TRSKY (KY. REV. STAT. § 161.260).

[2] Over the past eight years, the legislature has completely restructured investment statutes governing TRSKY. Additional legislative changes have included incorporating the prudent man rule, expanding the requirements of investment counselors, and modifying the asset allocation parameters for system investments. More recently, the legislature has clarified investments policies for real estate (KY. REV. STAT. § 161.430).

[3] In addition, for the past two years, TRSKY has published an Annual Investment Report which shows a more detailed account of what has happened over the previous year in regard to investments. This report is given to the Governor, the Legislative Research Commission, the Board members and anyone else who requests it. The report describes at length TRSKY's investment policy and procedures. It is available to the public.

[4] All records relevant to TRSKY are available under the Act except for information concerning pending investment transactions and individual member records.

[5] Such investment counselors must be registered under the Federal Investment Advisors Act of 1940, a bank as defined under that Act, or an insurance company qualified to perform investment services under the laws of one or more states. The investment counselor must also acknowledge its fiduciary relationship to the TRSKY (KY. REV. STAT. § 161.430).

must be made with the care, skill, prudence, and diligence under the prevailing circumstances that a prudent man, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of like character and similar aims (KY. REV. STAT. § 161.430). Additionally, Kentucky law prohibits the fund from purchasing more than 25 percent of any single stock issue and limits its investment in the securities of any single issuer to no more than seven percent of the invested funds of the system. An exception to the latter rule can be made in the case of obligations of the United States (*id.*).

State law prohibits any trustee or employee of the Board of Trustees from having any interest in or making any gain or profit from any Board investment, from using any asset of the TRSKY except to make current payments authorized by the Board, from becoming an endorser, surety or obligor for any monies loaned to or borrowed from the Board, and from otherwise profiting from any Board transaction (KY. REV. STAT. § 161.460).

Each employee of the fund is covered by a $1 million blanket bond. State law also makes it a misdemeanor to falsify or permit the falsification of records in an attempt to defraud the system (KY. REV. STAT. §§ 161.690 and 161.990). In addition to these provisions which are specific to the TRSKY, Board members and employees are subject to the general ethics and conflict of interest rules applicable to all Kentucky officials and employees (KY. REV. STAT. §§ 45A.330-45A.340 and 161.190). This latter statute makes it a crime for a public officer to have an interest in or to profit, or obtain perquisites from, the use or loan of public funds entrusted to him. Conviction disqualifies that officer from holding any other public office.

# TEACHERS' RETIREMENT SYSTEM OF LOUISIANA (TRSL)

Basic Facts:

- Number of active members: 85,000
- Number of annuitants: 24,534
- Total assets: $1.9 billion
- Amount of monthly annuity payroll: $21.2 million

The Teachers' Retirement System of Louisiana (TRSL) is administered by a 16-person Board of Trustees (LA. REV. STAT. § 17:651). The membership of this Board is set by statute and includes the State Superintendent of Public Education, the State Treasurer, the Chairman of the Retirement Committee of the House of Representatives of the Louisiana Legislature, the Chairman of the Retirement Committee of the State Senate, and 12 representatives of the members of the system who are elected by those members (LA. REV. STAT. § 17:652).

Beginning July 1, 1984, TRSL will be audited annually by the certified public accounting firm of Postlephwaite & Netterville.[1] The auditor's reports are filed with the Board, the Legislative Auditor and the Chairmen of the House and Senate Committees on Retirement (LA. REV. STAT. § 46:698.2). The system is also reviewed for actuarial soundness by Richard F. Camus, an enrolled actuary. Actuarial valuations of the assets and liabilities of the system are performed annually; at least once every five years a valuation of the mortality, service, and compensation experience is performed. This assessment is the basis for the actuarial assumptions used in determining TRSL funding levels (LA. REV. STAT. § 17:660). Copies of the latest actuarial report, including valuations of assets and liabilities, actuarial assumptions and considerations, cost of living adjustment evaluations and a five-year projection of the system's cash flow requirements, must be submitted to the House and Senate Retirement Committees at least 30 days prior to the beginning of each legislative session (LA. REV. STAT. § 42:698). TRSL is also subject to oversight by the Joint Legislative Retirement Committee.[2]

The TRSL Board is required by law to prepare an annual report of the fiscal transactions conducted by the system during the preceding year; this report includes data on accumulations of cash and securities and a balance sheet showing the financial condition of the system (LA. REV. STAT. § 17:657). Copies of the annual report are given to the State Fiscal Officer, Legislative Auditor, Governor, State Treasurer, state libraries, and school agencies which make it available to members.

The Board also prepares a summary plan description (SPD); copies of the SPD are provided to all members and annuitants of the system. The Board notifies each member, through his employer, of all legislation enacted that affects the system. The Board provides additional information about the system and members' rights and benefits via pamphlets and mailings. A newsletter is mailed out semi-annually (which includes a financial data sheet), and two retirement field consultants are available upon request for preretirement and post-retirement seminars and counseling.

Each member also receives an annual statement of account showing contributions at previous year's end, current annual salary and contributions, adjustments to the member's account, total contributions at current year's end, total creditable service, date of enrollment, birth date, beneficiary information, and projected average compensation. Members have the right to contest any adverse administrative decision by appeal to the Board of Trustees.[3] Persons seeking further information about the system and its administration may attend (LA. REV. STAT. § 42:5), or inspect the records of, the Board's proceedings (LA. REV. STAT. §§ 1 and 17:657).

The Board of Trustees is empowered to invest TRSL funds according to the recently enacted "prudent man" rule. State law limits the funds which may be invested in equities, however, to 25 percent of total assets (LA. REV. STAT. § 42:715-717). To assist in investment decisions, the system maintains an investment staff of four and retains outside professional investment managers and advisors for advice and guidance. These include: Scudder, Stevens & Clark, Massachusetts Financial, Hibernia National Bank, Citicorp Investment Advisors and M. D. Sass. Investment advisors are selected from nationwide proposals submitted to an *ad hoc* committee including the Secretary-Treasurer of TRSL and the State Treasurer. Selection guidelines are developed by the Board's Investment Committee with the aid of an outside consultant. TRSL investments are reviewed annually by the House and Senate Retirement Committees. Information on the system's average yield and income from investments is reported by the State Treasurer in the official statement of the State of Louisiana. TRSL retains Merrill Lynch's portfolio operations division to evaluate and report semi-annually to the Board of Trustees on the performance of each investment advisor as compared with the Merrill Lynch Long-Term Corporate and Government Index Universe of 1,000. A complete report of all investment transactions is submitted to the Board each month. These reports are made a part of the Board's minutes and are available to the public. A complete listing of the TRSL portfolio is included in the annual report. The system also publishes a manual of investment policy.

The investments and funds of the TRSL are in the custody of its Secretary-Treasurer. The Secretary-Treasurer,

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[1] Prior to this time, TRSL has been audited by the State Auditor.

[2] The Committee functions to prevent the enactment of legislation which would result in unfunded accrued liability to the system. The Committee conducts hearings during the interim to assess the fiscal and actuarial impact of proposed bills. It also is responsible for introducing legislation requiring the legislature to fund TRSL on an actuarially sound basis.

[3] Disability determinations are rendered by the State Medical Disability Board after reviewing medical case histories or conducting medical examinations of applicants (LA. REV. STAT. § 42:700.1). Members may appeal for a second examination at their own expense (LA. REV. STAT. § 42:703A-3). In the event of a conflict, a third opinion may be solicited with costs to the disfavored party.

and the two Assistant Secretary-Treasurers are bonded in the amount of $100,000 (LA. REV. STAT. § 17:672). Other staff members are bonded in the following amounts: the Investment Portfolio Advisor ($25,000); the Accounting Supervisor ($25,000); the General Ledger Accountant ($25,000) and the rest of the staff ($10,000).

Louisiana law prohibits the trustees and employees of the Board from having any direct interest in or profiting from any Board investments. They are also prohibited from receiving any gain for the performance of service, from misappropriating any gains or profits, and from becoming endorsers, sureties or obligors of monies loaned or borrowed from the Board (LA. REV. STAT. § 17:675). State law makes it a crime to falsify, or to permit the falsification of, any records of the system (LA. REV. STAT. § 17:574). In addition to these provisions, the trustees and their employees are subject to the provisions of the Louisiana Code of Ethics. Violations of the Code of Ethics are punishable by personal fines, termination or suspension, civil damages and, if there is evidence of criminal action, criminal prosecution (LA. REV. STAT. § 42:101).

The payment of benefits to members, retirees and beneficiaries is guaranteed by the Louisiana State Constitution (Article X, Section 29).

# MAINE STATE RETIREMENT SYSTEM (MSRS)

Basic Facts:

- Number of active members: 40,361
- Number of benefit recipients: 19,712
- Total assets: $856.5 million
- Monthly annuity payroll: $10 million

The Maine State Retirement System (MSRS) provides a consolidated retirement program for all state and local government employees.[1] MSRS is governed by an eight-person Board of Trustees comprised of the State Treasurer or Deputy Treasurer (ex officio), a representative of the Maine Teachers' Association, a member elected by the Maine State Employees' Association, three gubernatorial appointees,[2] a local district member of MSRS appointed by the Maine Municipal Association, and a MSRS retiree elected by the other trustees. All trustees serve three-year terms (ME. REV. STAT. ANN. tit. 5, § 1031.1). The Board selects from its number an Executive Director to administer the benefits under the System (*id.*). MSRS is audited annually by the State Auditor. An actuarial valuation of assets and liabilities is conducted annually (ME. REV. STAT ANN. tit. 5, § 1031.12.A) and an experience study every three years (ME. REV. STAT. ANN. tit. 5, § 1031.12.C) by Robert Towne & Associates.

Moreover, MSRS and its participating local districts are subject to oversight by the legislature's Joint Standing Committee on Aging, Veterans and Retirement.

MSRS publishes and distributes to its members a summary plan description (SPD), which is updated regularly to reflect major plan modifications. Supplementary fliers describe new legislation as it is enacted. The System also compiles an annual report showing the fiscal transactions of the retirement system for the prior year, the assets and liabilities of the fund at year's end, and the actuary's valuation of the financial condition of the plan (ME. REV. STAT. ANN. tit. 5, § 1031.9). The report is distributed to all participating employers; members may obtain copies upon request.

MSRS also conducts an information/education program in which staff members meet with plan participants to discuss available benefits. All records of the System (ME. REV. STAT. ANN. tit. 1, § 402) and of the Board of Trustees (ME. REV. STAT. ANN. tit. 5, § 1031.9) are publicly available. Board meetings are likewise open to the public (ME. REV. STAT. ANN. tit. 1, § 404).

Members receive upon request statements of their accounts showing amounts of accumulated contributions to MSRS (ME. REV. STAT. ANN. tit. 5, § 1062.2.F). Any participant denied benefits or otherwise aggrieved by a ruling of the System's Executive Director has the right to a hearing before the Board of Trustees, and ultimately may appeal to the state courts (ME. REV. STAT. ANN. tit. 5, § 1181).

The Board retains 13 private sector investment managers[3] to invest the funds of the retirement system in their discretion within the framework of MSRS investment policy (ME. REV. STAT. ANN. tit. 5, § 1031.15). The managers report quarterly to the Board on any changes in the portfolio (*id.*). Investment performance is monitored by the Boston Company. The Board makes a comprehensive statement of its investment policy available to the public.

MSRS's Board members are designated trustees by state law and perform as fiduciaries according to the prudent man rule (ME. REV. STAT. ANN. tit. 5, § 1061.1). Furthermore:

> no trustee and no employee of the board of trustees shall have any direct interest in the gains or profits of any investment made by the board; nor shall any trustee or employee of the board, directly or indirectly, for himself or as an agent, in any manner use the same except to make such current and necessary payments as are authorized by the board; nor shall any trustee or employee of the board become an indorser or surety, or in any manner an obligor, for moneys loaned to or borrowed from the board (ME. REV. STAT. ANN. tit. 5, § 1061.5).

The Board of Trustees reviews all proposed legislation affecting MSRS and reports to the legislature on the impact of any amendments on the retirement system. The report must include the amendment's purposes, the resulting equitable or inequitable treatment of members, the funding of the costs of benefits, its consistency with other provisions governing MSRS, and the value of the amendment to the System. The plan's actuary also must evaluate the actuarial impact of the amendment (ME. REV. STAT. ANN. tit. 5, § 1005.1). The legislature, upon certification by the Board, must appropriate annually the funds necessary to maintain the System on an actuarially sound basis[4] (ME. REV. STAT. ANN. tit. 5, § 1063.3).

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[1] "Employee" means any regular classified or unclassified officer or employee in a commission, institution, or agency of the state government, including public school teachers but excepting certain judges and police officers (ME. REV. STAT. ANN. tit. 5, § 1001.10).

[2] Two of these appointees must be experienced in investments, accounting, banking, insurance, or law. The appointments are subject to review by the Joint Standing Committee on Aging, Veterans and Retirement and to confirmation by the legislature (ME. REV. STAT. ANN. tit. 5, § 1031.1).

[3] Among the System's investment managers are: Putnam Advisory Company, Alliance Capital Management, Merrill Lynch, Maine National Bank, Massachusetts Financial Services, D. L. Babson, Morgan Guaranty Trust, The Travelers Insurance Company, and Fidelity Management Trust Company.

[4] This section, however, does not require the state to meet the obligations of participating local district members of the System (ME. REV. STAT. ANN. tit. 5, § 1063.3).

# MARYLAND STATE RETIREMENT AND PENSION SYSTEMS (MSRPS)

Basic Facts:

- Number of active members: 147,440
- Number of benefit recipients: 38,062
- Total assets: $3.71 billion
- Amount of monthly annuity payroll: $28 million

The Maryland State Retirement and Pension Systems (MSRPS) administers the pension systems for the teachers and public employees of the State of Maryland. MSRPS includes two retirement systems for teachers[1] and a number of other public employee retirement systems.[2] MSRPS has a 15-member Board of Trustees (MD. ANN. CODE. art. 73B, §§ 158 and 159) composed of representatives of the covered plans, the general public and state and local government. Among the trustees are the State Comptroller, the State Treasurer, the Secretary of Budget and Fiscal Planning, the Secretary of Personnel, the State Superintendent of Education, the Superintendent of State Police, two members or beneficiaries of the TRS and PST, two members or beneficiaries of ERS and EPS and two persons representing the interests of the general public (not affiliated with any of the covered systems), who are knowledgeable about the operation of pension funds. The trustees representing the teachers and employees are elected by the members and beneficiaries of those plans while the trustees representing the general public are appointed by the Governor (MD. ANN. CODE art. 73B, § 159). The MSRPS Board is staffed by the Maryland State Retirement Agency (MD. ANN. CODE art. 73B, § 160) for administrative purposes, including fund accounting; fund assets are invested by the State Investment Agency (SIA) (MD. ANN. CODE art. 73B, § 161(1) and (2)).

The MSRPS funds are audited annually by the Legislative Auditor[3] and are reviewed for actuarial determinations by Milliman & Robertson, Inc., consulting actuaries. Each year Milliman performs an actuarial valuation of the assets and liabilities of each covered system and at least once every five years reviews the mortality, service and compensation experience of each system (MD. ANN. CODE art. 73B, § 159(14)(d), (15)). Each year the General Assembly establishes an *ad hoc* Joint Pension Committee to review pension matters and to provide oversight functions. The House and Senate Appropriations Committees are responsible for MSRPS on a permanent basis. The legislature receives various reports and filings concerning the System pursuant to its supervisory duties. The legislature has enacted several major pieces of legislation over the last eight years affecting MSRPS.[4]

In investing MSRPS funds, the State Investment Agency is supervised by a State Investment Council (SIC)[5] (MD. ANN. CODE art. 73B, §§ 161(1) and (2)). The SIA is headed by an executive director appointed by the Board who must have prior investment management experience (*id.*). The SIA maintains a professional investment staff of five and also consults outside investment advisors when considering investment proposals and options. The retirement systems have contracts with several money managers who handle equity and bond funds.[6] In addition, the System hires outside consultants to evaluate investment performance.

The SIA may invest and reinvest MSRPS assets, subject to the terms and restrictions imposed by the Board of Trustees, except that no more than 50 percent of the assets may be invested in common stock nor more than 15 percent in non-dividend paying common stocks (MD. ANN. CODE art. 73B, § 161). A formal manual describing MSRPS investment policy is currently in preparation and will be available to the public.

MSRPS fiduciaries,[7] responsible for investment decisions, are required to act for the exclusive purpose of providing benefits to participants and their beneficiaries, to act with the care, skill, prudence and diligence that a prudent man would use under like circumstances, and to diversify the investments of the systems in order to

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[1] These are the Teachers' Retirement System (TRS), established in 1927 to cover all public school teachers and officials who were not members of local retirement funds, and the Pension System for Teachers (PST), established in 1980 to provide retirement benefits for all public school teachers and officials who become teachers after the effective date of the creation of the PST (MD. ANN. CODE art. 73B, §§ 82 and 142).

[2] These are the State Employees' Retirement System (ERS), the Pension System for State Employees (EPS), the Judges' Retirement Plan, the Legislative Retirement Plan, the State Police Retirement System and the State Police Pension Fund of the State of Maryland (MD. ANN. CODE art. 73B, §§ 158 and 159).

[3] Maryland law requires at least biennial audits of the retirement and pension system but provides that the Legislative Auditor may conduct these reviews on an annual basis (MD. ANN. CODE art. 73B, §§ 98A and 155). It has been the practice of the Legislative Auditor to audit these systems annually.

[4] This legislation included: requiring annual reporting by local governments regarding their pension plans (1978, Chapter 757); establishing new pension systems integrated with Social Security, fully funding all state systems, and capping the cost-of-living benefit (1979, Chapters 23 and 24); replacing multiple Boards of Trustees and their Advisory Investment Committees with a single Board of Trustees, a State Investment Agency, and a seven-member State Investment Council (1982, Chapter 506); and providing for retiree health benefits, changing the actuarial funding method, adopting the prudent person investment standard, and providing for continued actuarial funding of benefits earned in old systems (1984, Chapter 290).

[5] The SIC is a seven-member panel which supervises the activities and investments of the SIA on behalf of the Board of Trustees(MD. ANN. CODE art. 73B, § 161(4)). Its members include four members from the Board of Trustees, one of whom shall be an elected trustee of the teachers, one an elected trustee of the employees, one an appointed trustee of the State Police System, one an ex-officio trustee. The other three shall be members of the public who are not members or beneficiaries of any of the systems and who have experience in the management and control of large investment systems.

[6] These managers include, for example, Alliance Capital, Atlantic Capital, Capital Guardian, Dimensional Fund Advisors, Investment Advisors, Investment Council of Maryland, Mercantile Safe Deposit, Miller Andersen, Morgan Stanley, and State Street.

[7] The members of the Board of Trustees, the SIC and the executive director for investments are all fiduciaries under Maryland law (MD. ANN. CODE art. 73B, § 87A(b)).

minimize the risk of loss unless prudence otherwise dictates (MD. ANN. CODE art. 73B, § 74). The fiduciaries are forbidden to deal with the assets of the covered systems for their own account or to act on or represent the interests of any party whose interests are adverse to those of the systems (MD. ANN. CODE art. 73B, § 76). A fiduciary who breaches these standards is personally liable to make good to the plan any losses resulting from the breach, and to restore any profits which have been wrongfully made through the use of the plan's assets. The fiduciary is also subject to any equitable or remedial relief which a court may deem appropriate, including removal from office (MD. ANN. CODE art. 73B, § 77). Each fiduciary and every other person who handles the property or funds of the covered systems is required to be bonded (MD. ANN. CODE art. 73B, § 80).

The executive director of the SIA is required by law to submit to the MSRPS Board of Trustees a report on the performance and operation of the SIA (MD. ANN. CODE art. 73B, § 161(9)). This is done on a monthly basis. The Board of Trustees is required to publish an annual report showing the fiscal transactions of each of the covered retirement systems (MD. ANN. CODE art. 73B, § 159(15)) and including audited financial statements. The report is available to the public upon request.

The Board of Trustees provides each participant and beneficiary with an annual statement of account that contains purchase service detail, any breaks in service, account balance, designated beneficiaries, estimated monthly retirement benefits, cost of living adjustment, employer cost, estimated monthly disability benefits and death benefits. The statement also includes various explanatory material. Participants and other affected parties have the right to an administrative appeal regarding any adverse benefit decision by the Board (Board Rule 22.04.04.01).[8] A summary of the retirement system which includes the name of the plan and the type of administration, and the eligibility and vesting standards which apply to the plan is available to the members. Supplemental information is provided through periodic notices and newsletters, as well as pre-retirement seminars presented by the MSRPS staff.

All records of the MSRPS or its Board of Trustees, unless privileged,[9] are publicly available under Maryland's State Government Law (MD. STATE GOV'T CODE ANN. § 10-612) and regulations governing the pension system. Board meetings are likewise open to the public (MD. STATE GOV'T CODE ANN. § 10-505).

It is a misdemeanor for anyone to make false statements or to falsify records in an attempt to defraud any of the retirement systems (MD. ANN. CODE art. 73 B, §§ 97 and 153).

Maryland guarantees MSRPS by the following provision:

> The creation and maintenance of reserves in the accumulation fund, regular interest creditable to the funds . . . , the payment of all retirement allowances, refunds, and other benefits . . . , and all expenses in connection with the administration and operation of this pension system, are obligations of the State. All income, interest, and dividends derived from deposits and [authorized] investments . . . shall be used for the payment of these obligations of the State.

(MD. ANN. CODE art. 73B, § 151).

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[8] Where the Executive Director for Administration grants a request for a hearing, he submits written findings of fact and conclusions of law to the Board of Trustees to be included in the next Board agenda. Requests denied by the Executive Director are presented to the Board for its decision whether to hear the case. The decision of the Board is the final administrative decision of the case (Board Rule 22.04.04.01).

[9] Privileged documents include personal retirement account files, personnel files, trade secrets and confidential commercial or financial data, documents in the custody of the State Investment Agency (until the transaction or other matter at issue has been completed and the release of information would not adversely affect the negotiation of the market price of the involved asset), and inter- or intra-agency memoranda (which would not be available by law to a private party in litigation with the agency or which, if disclosed, would be contrary to the public interest (Board Rule 22.04.23.03)

# MASSACHUSETTS TEACHERS' RETIREMENT SYSTEM (MTRS)

Basic Facts:

- Number of active members: 70,000
- Number of benefit recipients: 20,776
- Total assets: $1.3 billion
- Amount of monthly annuity payroll: $15.2 million

The Massachusetts Teachers' Retirement System (MTRS) is administered by a five-member Teacher Retirement Board (TRB). The Board is composed of the Commissioner of Education or his designee, a retired former public school teacher appointed by the Governor, two persons elected by the present and retired members of the MTRS from among their ranks, and a fifth person chosen by the other four Board members (MASS. GEN. LAWS ANN. ch. 15, § 16 (WEST)). Oversight of MTRS is provided in the legislature by the Committee on Public Service.

The TRB is part of the Public Employee Retirement Administration Division (PERA) of the State Executive Office for Administration and Finance[1] (MASS. GEN. LAWS ANN. ch. 7, § 4G (WEST)). The PERA is headed by the Commissioner of Public Employee Retirement who is responsible for promulgating rules and regulations to govern the financial operations, administration, recordkeeping and reporting of the state retirement boards, including the TRB (MASS. GEN. LAWS ANN. ch. 7, §§ 49 and 50 (WEST)). The Commissioner is also required to conduct regular desk examinations, and field examinations when necessary, of all the state's retirement systems. These examinations must be performed at least every three years (MASS. GEN. LAWS ANN. ch. 7, § 50 (WEST)). PERA maintains a staff of auditors for the purpose of fulfilling this statutory obligation. Copies of the audit reports are given to the Board of Selectmen, the Governor and the press. The state actuary also evaluates the actuarial soundness of the retirement systems.

Responsibility for the investment of MTRS funds is divided between two bodies — the nine-member Pension Reserves Investment Management Board (PRIM Board)[2] and a three-member unpaid investment committee.[3] The PRIM Board administers the MTRS Pension Reserve Fund as part of the Pension Reserves Investment Trust (MASS. GEN. LAWS ANN. ch. 32, §§ 22(8) and 23(2A) (WEST)). Participation in the PRIT is mandatory for the MTRS but is optional for certain local plans. The other funds of the MTRS[4] are managed by the three-member unpaid investment committee (MASS. GEN. LAWS ANN. ch. 32, § 23(1) (WEST)).

The PRIM Board members serve as trustees for the MTRS and, when investing its funds, are bound to act solely for the benefit of the MTRS's members and with

> the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims and by diversifying the investments of the system so as to minimize the risk of large losses unless under the circumstances it is clearly prudent not to do so (MASS. GEN. LAWS ANN. ch. 32, § 23(3) (WEST)).

The investment of PRIT funds is further limited by a statutory restriction that prohibits direct investments in mortgages or collateral loans (MASS. GEN. LAWS ANN. ch. 32, § 23(2A)(h) (WEST)). PRIT funds and investments are maintained in the custody of the State Treasurer (MASS. GEN. LAWS ANN. ch. 32, § 23(2A)(c) (WEST)).

The PRIM Board is required by law to transfer at least $2 million of PRIT funds (roughly less than 1%) to the Massachusetts Technology Development Corporation ("MTDC") to invest for the purpose of fostering business and technological development in the state (MASS. GEN. LAWS ANN. ch. 40G, § 1 (WEST)). The MTDC is a statutory corporation with an 11-member board of directors[5]. MTDC may invest in either "qualified securities" that will generate seed capital for qualifying enterprises or in investments that are lawful for fiduciaries in Massachusetts. A "qualified security" is defined to include, stocks, notes, bonds, and other certificates of interest. Purchases of qualified securities are not subject to any of the limitations on lawful investments that are otherwise applicable to fiduciaries or to the investment of state or public pension funds (*id.*). The MTDC is audited annually by the Auditor of the Commonwealth and by an independent auditor (MASS. GEN. LAWS ANN. ch. 40G, § 7 (WEST)).

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[1] Within the Commonwealth, there exist 106 retirement systems, including MTRS. The PERA divsion was created in 1982 to oversee their operations (1982 Mass. Acts 630).

[2] The PRIM Board is an unpaid investment management board which supervises the investment and reinvestment of the Pension Reserves Investment Trust (PRIT). The PRIM Board membership consists of the Governor, the State Treasurer, a representative of a public safety union appointed by the Governor, a private citizen experienced in investment or financial management appointed by the State Treasurer, a member of a participating local retirement system appointed by the Governor, a member of the MTRS elected by the membership, a representative of a non-public safety union appointed by the State Treasurer, a member of the State Employees' Retirement System elected by the membership, and the Commissioner of Public Employee Retirement (MASS. GEN. LAWS ANN. ch. 32, § 23(2A)(a) (WEST)).

[3] The unpaid investment committee of the MTRS (and the State Employees' Retirement System) consists of the State Treasurer, the Commissioner of Banks, and a person with investment experience chosen by the other members (MASS. GEN. LAWS ANN. ch. 32, § 23(i) (WEST)).

[4] The Annuity Savings Fund, the Annuity Reserve Fund, the Pension Fund, the Special Reserve for Military Service Credit and the Expense Fund.

[5] The directors include the Secretary of Manpower Affairs, the Secretary of Administration, one other cabinet secretary or government official, and eight other persons experienced in capital or business development named by the Governor (MASS. GEN. LAWS ANN. ch. 40G, § 2 (WEST)).

The unpaid investment committee of the MTRS is bound by the same fiduciary standards that apply to the PRIM Board; the funds it invests are also in the custody of the State Treasurer.

Both of the entities that invest MTRS funds are subject to the policies and performance standards established by the Pension Investment Advisory Unit (PIAU) of the Public Employee Retirement Administration Division. The PERA establishes fund management policies and regulates the sale of low yield investments; it also prescribes policies concerning the personal investments of board members and employees to prevent conflicts of interest. The PERA has the authority to grant exemption from certain statutory investment restrictions.[6] Its investment and fund management policies are available to the public upon request.

Massachusetts law provides a comprehensive reporting system for monitoring the administration of public pension systems. The PRIM Board and the unpaid investment committee are each required to make annual filings on or before the first of May each year that report on the financial condition of each retirement system as of the preceding December 31st. Copies of these statements are filed with the Commissioner of Public Employee Retirement (in the case of the unpaid investment committee only), the clerk of the House of Representatives (in the case of the PRIM Board only) and the secretary of the appropriate retirement board (MASS. GEN. LAWS ANN. ch. 32, § 23(1)(c) and (2A)(d) (WEST)). The TRB is also required to file with the Commissioner of Public Employee Retirement a report on the financial condition of the MTRS as of the preceding December 31st.

In addition to the statement of financial condition, the TRB is required to prepare an annual report that discloses the financial transactions of the system during the preceding year and presents such statistical information regarding the membership and the operation of the system "as would be of general interest" (MASS. GEN. LAWS ANN. ch. 32, § 20(5)(i) (WEST)). This annual report is filed with the Governor, the State Treasurer and the Commissioner of Education, who publishes it in the Annual Report of the Department of Education. Copies of the Board's report must be provided to plan members and other interested persons upon request (*id.*). The MTDC is required by law to submit a complete and detailed report of its activities within 90 days following the close of its fiscal year to the clerks of the House of Representatives and the Senate (MASS. GEN. LAWS. ANN. ch. 40G, § 6 (WEST)).

The TRB provides each plan member an annual statement of account which shows the total contributions that have been made to his account since he entered the system and the interest that has accrued (MASS. GEN. LAWS ANN. ch. 32, § 20(5)(i) (WEST)). A participant has the right to an administrative appeal in case of an adverse benefit decision by the Board (MASS. GEN. LAWS ANN. ch. 32, § 16 (WEST)). Plan members also receive a summary plan description (SPD) of the MTRS that is updated periodically. The TRB conducts preretirement counseling programs to educate plan members regarding the administration of MTRS, member rights and benefits and retirement options. Similar counseling services will soon be provided by PERA as well. Persons seeking additional information about the MTRS have access to the system's records under the open records law of Massachusetts (MASS. GEN. LAWS ANN. ch. 66, § 10 (WEST)). The meetings of the TRB are open to the public (MASS. GEN. LAWS ANN. ch. 30A, § 11A-1/2 (WEST)).

The members and employees of the various boards, committees and other entities that administer the MTRS are subject to the Massachusetts ethics laws which prohibit any state employee, paid or unpaid, from engaging in activities that would impair his or her independence or from having any direct or indirect financial interest in any contract to which the state or any agency thereof is a party (MASS. GEN. LAWS ANN. ch. 268A, § 1 (WEST)). Violations or neglect of the duties imposed on any person charged with responsibilities with regard to the MTRS may be punished as a criminal offense (MASS. GEN. LAWS ANN. ch. 32, § 24 (WEST)). Embezzlement by any person employed in the Treasurer's office is punishable by fine or up to life imprisonment (MASS. GEN. LAWS ANN. ch. 266, § 50 (WEST)). The State Treasurer is bonded individually for $100,000; the remainder of the Treasurer's Office is bonded under a blanket bond. PERA's investment regulations require that all persons having access to retirement board funds be bonded "in an amount sufficient to provide reasonable protection against losses due to fraud and dishonesty" (Investment Regulations § 17.01).

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[6] Massachusetts law prohibits the investment of public pension funds in banks with outstanding loans to the Republic of South Africa or to members of the weapons or munitions industry whose products are used in Northern Ireland. It also prohibits investments in the securities of companies which do business in South Africa or which manufacture or deal in weapons or munitions for use in Northern Ireland (MASS. GEN. LAWS ANN. ch. 32, § 23 (WEST)).

# MICHIGAN PUBLIC SCHOOL EMPLOYEE RETIREMENT SYSTEM (MPSERS)

Basic facts:

- Number of active members: 274,000
- Number of annuitants: 60,433
- Total assets $7.3 billion
- Amount of monthly annuity payroll: $25.5 million

The Michigan Public School Employee Retirement System (MPSERS) is an agency of the state (Michigan Constitution Article IX, Section 24), which administers a consolidated system of public school employee benefits. MPSERS is governed by an eight-member board appointed by the Governor[1] (MICH. STAT. ANN. § 38.1322). Investments for the System are made by the state Department of the Treasury.

MPSERS' performance is audited by the State Auditor General, and the system retains Gabriel, Roeder, Smith & Company for its actuarial valuations, which are performed once a year. The House Retirement Committee and the Senate Appropriations Subcommittee on Retirement have responsibility for all public pension matters. The legislature also maintains an auditing arm that periodically reviews the performance of MPSERS (and of other public agencies in the state).[2]

MPSERS publishes and makes available to all members through employers a financial statement and a plan description which, in combination, constitute a summary plan description (SPD). MPSERS also publishes two annual reports, one of which is a summary statement of plan performance mailed to all retirees and the other is a detailed report distributed to school employers, which is made available to employees and retirants upon request.

State law requires that an annual summary of the financial and actuarial condition of the system be furnished the Governor, each member of the legislature, and each pension recipient (MICH. STAT. ANN. § 38.1328). Copies of the summary — like other MPSERS records — are either made available upon request or are open for inspection[3] (MICH. STAT. ANN. § 4.1801(1)). All board meetings are publicly announced and are open to the public (MICH. STAT. ANN. § 4.1800(13)). They are conducted in a public facility with agenda and materials available upon request (MICH. STAT. ANN. § 38.1323). In addition to open records and open meetings, MPSERS conducts an active public education program that includes pre-retirement seminars, individual counseling, and several publications. Estimates of benefits are provided to members annually upon request; retirants and beneficiaries receive annual statements as a matter of board policy. Any denial of benefits to a member is accompanied by a written statement of the right to appeal, as required by the state's Administrative Procedures Act.

As noted above, investment responsibility rests with the State Treasurer. A five-member Investment Advisory Committee, along with the Auditor General, monitors the Treasury Department's investments for all Michigan public employee retirement systems (MICH. STAT. ANN. § 16.191). MPSERS also hires SEI Funds Evaluation Services to further assess investment performance. MPSERS investment activity is subject to a high degree of regulation (MICH. STAT. ANN. § 38.1132). Investments must be made in accordance with the prudent expert standard. In addition, the fiduciary must "act with due regard for the management, reputation, and stability of the issuer and the character of the particular investments being considered" (*id.*). The investment fiduciary must also consider diversification of investments, liquidity, and current and projected return on investments. He is also directed to consider investments that would enhance the general welfare of the state, "if those investments offer the safety and rate of return comparable to other investments permitted under this act" (*id.*). A transactional report detailing the fiscal transactions of the System's assets is distributed to the legislature, the Governor, and each pension recipient, and to members and the general public on request.[4]

Besides subjecting MPSERS's investments to a high degree of supervision and review and to high fiduciary standards, the Michigan code limits the kinds and amounts of investments that can be made. Permissible investments include investments in stock, diversified investment companies, annuity contracts, obligations of state and local governments and other similar institutions, investment in real estate mortgages or real property and investment in certain loans. Additional limited investment discretion is authorized in regard to small business and venture capital (*id.*).[5]

The Michigan Code does not include provisions regarding co-fiduciary liability (because investments are made by the State Treasurer); it does prohibit self-dealing, barring the fiduciary from benefiting from employment with the system or from any investment

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[1] The Board is comprised of at least the following: State Superintendent of Education, one active teacher, one active non-teacher, one retiree or active member from the Detroit Public School System, one retirant and one representative from the insurance, actuarial or investment field.

[2] Enabling legislation to create a Council on Public Employee Retirement Systems was passed in 1980, but to date, the legislature has not funded the Council.

[3] This includes detailed records regarding financial transactions and obligations available in the State Treasurer's office.

[4] The report must contain at least the following from the financial and actuarial statements: a statement of assets and liabilities; a statement of investments by, and amounts earned in, each category; a statement of revenues and expenditures; and a statement of the estimated number of members having vested pension benefits for which MPSERS is liable.

[5] State law imposes a ceiling of 50 percent on investment in corporate equities and of five percent on investment in any one company. Up to five percent investment is permitted in real estate, five percent in municipal bonds (but only at market rates of return) and two percent in small business and venture capital firms.

made by the system.[6] Michigan law does not permit state officials to waive the standards that govern MPSERS's investments. All MPSERS Board members and employees are covered by a blanket bond.

Article IX, Section 24 of the Michigan Constitution provides that membership in MPSERS constitutes a contract, the benefits of which may not be diminished or impaired.

[6] Michigan passed a strong Code of Ethics in 1973 (Act 196-Public Acts of 1973) that applies to all state employees, board members, etc. An even more rigorous Executive Order on the same subject was issued by the Governor in 1977.

# MINNESOTA TEACHERS' RETIREMENT ASSOCIATION (MTRA)

Basic Facts:

- Number of active members: 58,190
- Number of benefit recipients: 13,160
- Total assets: $2.2 billion
- Amount of monthly annuity payroll: $6.85 million

The Minnesota Teachers' Retirement Association (MTRA) is governed by an eight-member board. Five of the members are elected by the membership and three members sit ex officio (the Commissioners of Education, Finance and Insurance) (MINN. STAT. ANN. § 354.06 (WEST)). MTRA is audited annually by the State Legislative Auditor (as are all seven major state and city retirement systems); an annual actuarial valuation is performed by Robert Flott, Actuary (MINN. STAT. ANN. § 356.215 (WEST)). In addition, MTRA is subject to oversight by the Legislative Commission on Pensions and Retirement. The legislature is mandated to review contribution rates for all systems annually in order to maintain funding adequacy. In recent years, the legislature has enacted sweeping reforms in the public retirement system. MTRA's board does not have investment authority but relies on the State Board of Investment (SBI), which in turn, is guided by an Investment Advisory Council.[1]

MTRA publishes a summary plan description (SPD) that is available to the public and that is updated regularly to reflect major modifications.

MTRA publishes a detailed Annual Report (MINN. STAT. ANN. §§ 354.06, 356.20 (WEST)). All of the plan's basic documents are available to participants and the public under state law.[2] Minnesota has a government in the sunshine law (MINN. STAT. ANN. § 471.705 (WEST)), passed in 1982, that makes all MTRA board meetings open and a FOIA law (MINN. STAT. ANN. § 15.1672 (WEST)) that gives the public access to MTRA and State Board of Investment records. In addition to these safeguards, MTRA has an extensive public information program. It maintains 14 counseling centers around the state; it provides speakers for both active and retired teacher groups; it publishes a newsletter and topical memoranda on new developments in retirement benefits and fund performance (which are posted in school buildings); and it distributes annually to each teacher in the state a synopsis of the annual report that includes a balance sheet, a revenue statement, and various statistical summaries. Individualized computer statements are furnished to each member once a year showing retirement account activity for the previous fiscal year (including salary service credit and deductions) as well as total account balance, including benefit projections to retirement. Members whose benefits are denied are given specific instructions regarding appeals at the time of denial.

In investing MTRA funds, the State Board of Investment (SBI) is subject to a "prudent person" standard (MINN. STAT. ANN. § 11A.01 (WEST)).[3] The Board is also required to establish a formula to ensure the performance of investment management personnel and to measure the return on investment. The SBI currently retains 21 investment managers, as well as an investment performance consultant (Merrill Lynch). The discretion of these consultants is limited not only by the SBI's investment formula, but also by statute. The bulk of MTRA assets (80%) may be invested only in government obligations, certain qualified corporate obligations and other types of commercial paper, and mortgage participation certificates. Up to 20% of MTRA's assets may be invested in certain more speculative investments, such as venture capital, resource fund investments and real estate ownership interests (MINN. STAT. ANN. § 11A.24 (WEST)). The SBI maintains a written statement of its investment policy, which is publicly available upon request.

The Minnesota Code proscribes self-dealing for members of the Investment Advisory Council and its employees.[4] It specifies that "no member of the Council can participate in deliberations or vote on any matter . . . which will . . . result in direct, measurable economic gain to the member" (MINN. STAT. ANN. § 11A.08 (WEST)). In addition, Minnesota has an Ethics in Government statute that applies to the SBI, the Investment Advisory Council and MTRA officials.

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[1] The State Board of Investment is composed of the governor, state auditor, state treasurer, secretary of state and attorney general. The Investment Advisory Council is composed of the trustees of the various state pension funds plus ten members experienced in general investment matters, the state commissioner of finance, two public employees and a retiree (MINN. STAT. ANN. § 11A.01 (WEST)).

[2] Collective bargaining agreements and trust agreements do not exist in regard to MTRA.

[3] This standard requires that duty of care "under the circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived therefrom."

[4] Council members are also required to file an economic interest statement with the State Board of Ethical Practices.

# PUBLIC EMPLOYEES' RETIREMENT SYSTEM OF MISSISSIPPI (PERS)

Basic Facts:

- Number of active members: 121,590
- Number of annuitants: 24,300
- Total accrued assets: $2.3 billion
- Amount of monthly annuity payroll: $8.35 million

The Public Employees' Retirement System of Mississippi (PERS) is administered by a 10-member Board of Trustees.[1] All trustees serve six-year terms, except the retired member who serves for three years (MISS. CODE ANN. § 25-11-15(2)). In addition, the Lieutenant Governor designates two senators, and the Speaker of the House selects two representatives to attend Board meetings on a non-voting basis (MISS. CODE ANN. § 25-11-15(10)).

The PERS Board employs an Executive Secretary to manage the daily operations of the system, an in-house investment manager, and 12 outside investment managers (seven for fixed income and five for equity investments).[2]

State law requires PERS to hire an actuary to advise the Board and to evaluate the system (MISS. CODE ANN. § 25-11-119(8)). PERS currently employs George B. Buck Consulting Actuaries, Inc. to perform a biennial valuation. In addition, PERS retains the Buck Company to determine the cost of proposed legislative changes and to perform an overall assessment of the actuarial assumptions and experiences of PERS every five years. PERS is required to fix biennially the contribution rates required to fund the liabilities of the system as shown by the actuarial valuation (MISS. CODE ANN. § 25-11-123(c)(1)).

PERS is audited annually by the State Department of Audits or, as in the last two fiscal years, by the private firm of Peat, Marwick & Mitchell (MISS. CODE ANN. § 25-11-119(2)). In the legislature, the Senate Finance Committee and the House Appropriations Committee have oversight responsibility for the system. Upon request, the Performance, Evaluation and Expenditure Review Committee (PEER) of the State Legislature performs audits. All of the audit reports are a matter of public record and are open for inspection (MISS. CODE ANN. § 25-11-119(3)).

PERS is required by law to prepare and publish an annual report. In addition to detailed financial information, a summary of all investments, a balance sheet comparing changes in investment performance with the preceding year, a summary of the actuarial report and a summary of recent legislative changes affecting the plan are included (MISS. CODE ANN. § 25-11-119(2)). The annual report is mailed to all employers, the Governor and the Legislature. A supply sufficient for all members of the system is available for distribution through employers and upon request.

PERS publishes and provides a summary plan description (SPD) for all active and retired members of the system. Employers are given a supply of the SPD sufficient for all members, and copies of the SPD are mailed to members upon request. In addition, PERS conducts an active public information program that includes benefit seminars for employer agencies, members, and retirees. Each PERS member receives an annual statement showing the status of his account and further information is available upon request. Members have the right to appeal any denial of benefits under MISS. CODE ANN. § 9-5-81. Persons seeking further information about the system and its administration may attend the Board's proceedings (MISS. CODE ANN. § 25-11-119(4) and § 25-41-3)) and inspect its records (MISS. CODE ANN. § 25-11-119(2) and § 25-61-1)).

PERS monitors investment performance closely. The Board employs SEI Corporation to assess the performance of its investment managers. State law prescribes fixed categories of eligible investments and defines the percentage of PERS assets that may be invested in any single category (MISS. CODE ANN. § 25-11-121(1-5)).[3] Additionally, the deposit of PERS assets in any state bank requires the posting of securities equal to 100% of the deposited assets (MISS. CODE ANN. § 25-11-121(3)). All investments are governed by the "prudent person" rule (MISS. CODE ANN. § 25-11-121). Mississippi law provides special protection for system participants. The state code specifies that if PERS terminates, all system members' benefits will be deemed vested. In the event that the system lacks sufficient funds to make good on benefit obligations, the state must appropriate sufficient monies to guarantee PERS benefits as an obligation of the state (MISS. CODE ANN. § 25-11-133(2)).

Board members are required by law to take a sworn oath to administer diligently and honestly the affairs of the Board, and must file a statement with the state showing the absence of any conflict of interest (MISS. CODE ANN. § 25-11-15(4)). Further, state law makes it a crime to attempt to defraud the system by knowingly falsifying or permitting the falsification of any PERS

[1] The Board includes the State Treasurer and the State Superintendent of Public Education (ex officio), two gubernatorial appointments — a non-state employee with 10 years' experience in investment banking, and a classroom teacher with 10 years' teaching experience — and six members elected by their respective constituent groups — two state employees with 10 years of creditable service in PERS, an employee of a municipality with 10 years of creditable service in PERS, a county employee with 10 years' creditable service in PERS, an employee of an institution of higher learning with 10 years' creditable service, and one retired member.

[2] Equity managers include: Alliance Capital; Eaton & Howard; Vance Sanders; Fayez Sarofim; INVESCO Capital; and Scudder, Stevens and Clark. Bond managers are: Criterion; Dreyfus; Lehman; Mackay-Shields; Manufacturers Hanover; PIMCO; and Wentworth, Hauser & Violich.

[3] Authorized categories of investments include: bonds, notes, certificates, debentures, and other securities; Mississippi highway bonds; federally insured deposits; corporate bonds; bonds of the Tennessee Valley Authority; and shares of stocks (MISS. CODE ANN. § 25-11-121(1)(a-i)).

record[4] (MISS. CODE ANN. § 25-11-131). In addition, Board members and employees may have no interest in PERS investments and may receive no emolument for services connected with such transactions. Nor may they become endorsers, sureties, or obligors for money loaned or borrowed from the system (MISS. CODE ANN. § 25-11-121(7) and §§ 25-4-1 to 31)). The PERS Executive Secretary is bonded at $35,000; each staff member is covered by a blanket bond for $15,000.

[4] If amounts obtained or attempted to be obtained exceed $500, the crime is deemed a felony and is subject to a fine of $10,000 and/or imprisonment of five years; if less than $500, misdemeanor penalties of a $500 fine and/or six months in jail are invoked (MISS. CODE ANN. § 25-11-131).

# PUBLIC SCHOOL RETIREMENT SYSTEM OF MISSOURI (PSRSM)[1]

Basic Facts:

- Number of active members: 58,000
- Number of annuitants: 16,043
- Total assets: $2.4 billion
- Amount of monthly annuity payroll: $8.8 million

The Public School Retirement System of Missouri (PSRSM) is governed by a five-person board composed of two members elected by members or retirees and two appointed by the State Board of Education. The Commissioner of Education sits ex officio (MO. ANN. STAT. § 169.020 (VERNON)). PSRSM is audited biannually by the State Auditor (MO. ANN. STAT. § 169.020 (VERNON)) and annually by a private accounting firm. An actuarial valuation of assets and liabilities is conducted annually and an experience valuation every four years by the enrolled actuarial firm of W. Alfred Hayes & Co. (MO. ANN. STAT. § 169.020(12) (VERNON)).

In addition, PSRS and all local plans are subject to oversight by the recently-established Joint Committee on Public Employee Retirement, a bipartisan standing committee comprised of six members from each legislative body (MO. ANN. STAT. §§ 21.550 through 21.564 (VERNON SUPP. 1984)). The Committee employs a staff, reviews legislative retirement proposals, secures reports from the statutory retirement systems, and reports its findings to the General Assembly.[2] Over the past few years, the Committee has been the initiator of key legislation affecting the state's public retirement systems, including the enactment of the prudent man investment standard.

PSRSM publishes and distributes to all members a summary plan description (SPD), which is updated regularly to reflect major modifications (the most recent modification was 1982). PSRSM also publishes an annual report that includes statements of assets and liabilities for the current and preceding plan years, of changes in net assets available for benefits in the present and previous plan years, and of receipts and disbursements during the years; a description of the plan's funding policy, objectives, and investment performance; a complete actuarial statement and balance sheet; a summary of changes in membership; a list of all securities, stocks, mortgages, and loans held by the System; a 10-year summary of statistics for PSRSM; and other data. The report is distributed to all employer units and made available to PSRSM members.

PSRSM also conducts an extensive member outreach program to keep members informed regarding the plan's operations. Services include: member handbooks, newsletters, special notices, informational exhibits at teacher conferences, presentations to member groups, pre-arranged regional meetings with members, in-office consulting, In-WATS free telephone service, and a traveling field staff. All PSRSM documents and records, as well as its meetings, are open to the public under Missouri's recently enacted government in the sunshine law (MO. ANN. STAT. §§ 109.180, 169.020, 610.015 (VERNON)).

As a result of board policy, each PSRSM participant is provided an annual statement of his individual benefit status, which includes: credit for membership service, salary, contributions, and interest; accumulation of membership service, prior service, contributions, interest, and total contributions and interest; designated beneficiaries; and various explanatory material. Any participant who is denied benefits under the plan is entitled to appeal the decision to the Board or the courts (MO. ANN. STAT. § 169.010.15 (VERNON)).

PSRSM does not employ professional investment staff but instead retains private sector investment managers. Currently the Boatmen's Bank of St. Louis, Missouri serves as the investment manager and custodian. Boatmen's was chosen on a competitive basis. The Board of Trustees reports to the Joint Committee and to the Governor on the financial status of the System at least once a year. Investment performance of PSRSM is measured annually by National FSI Investment Performance System. In addition, the Joint Committee on Public Retirement is currently analyzing alternative investment policies for the system.

PSRSM's board members are designated trustees by state law and perform as fiduciaries in accordance with the prudent person standard (MO. ANN. STAT. § 169.040.2 (VERNON SUPP. 1984)). In addition, PSRSM is required to diversify its investments and is restricted in terms of permissible categories of investments. Permissible investments include: bonds with sufficient security, state, county or school district bonds, accounts of savings and loans associations, and investments generally permitted to life insurance companies (MO. ANN. STAT. § 169.040 (VERNON)).

State law prohibits self-dealing by members of the board or their companies and requires the board to "safely preserve" funds collected for the system (*id.*). The board interprets this as prohibiting below-market loans to state and local governmental entities or similar below-market investments. The state ethics laws covering conflicts of interest and the conduct of members of Missouri state boards and commissions apply to the PSRSM (MO. ANN. STAT. §§ 105.450 through 105.482 (VERNON)). Finally, PSRSM board and staff personnel are bonded to $300,000 individually, and covered by a $50,000 forgery bond. Directors and executive officers are protected to $10 million.

[1] PSRSM is mandatory for all cities of less than 400,000 population. Kansas City and St. Louis are the only two cities that do not fall within this category and each has its own pension fund.

[2] The Joint Committee's long-term goal is to develop minimum reporting, disclosure, and funding standards for the 125 separate public retirement systems of Missouri.

# MONTANA TEACHERS' RETIREMENT SYSTEM (MTRS)

Basic Facts:

- Number of active members: 15,214
- Number of benefit recipients: 5,220
- Total assets: $332 million
- Amount of monthly annuity payroll: $2.6 million

The Montana Teachers' Retirement System (MTRS) is administered by a six-member Board appointed by the Governor (MONT. CODE ANN. § 2-15-1010). The Board includes two teachers who are active in the system, two members from the general public, one retired member who participated in the system at the time of retirement, and the State Superintendent of Public Instruction. Board members serve four-year terms. The Board hires an Executive Secretary and employs additional staff to manage day-to-day operations (MONT. CODE ANN. § 19-4-203).

MTRS is required by law (MONT. CODE ANN. § 19-4-201(4)) to publish a biennial report by January 1 of each year the Legislature meets, which details the fiscal transactions for the two preceding fiscal years and the amounts of accumulated cash and securities of the retirement system, and contains the last fiscal year's balance sheet showing the system's assets and liabilities. The biennial report must be submitted to the Governor and copies are furnished each legislator. The report is available to MTRS members and to the general public upon request.

The MTRS is audited every two years by the Legislative Auditor. By law, the audit reports must be submitted to the Department of Administration, each member of the Legislative Audit Committee and the Legislative Council (MONT. CODE ANN. § 5-13-304).[1] An actuarial valuation to determine the financial soundness of the MTRS is conducted every two years by Hendrickson & Associates. Copies of the actuarial valuation are provided upon request.

A summary plan description (SPD) in the form of a "Handbook of Information" is distributed every two years to each member through his employer. Presentations on MTRS benefits, as well as individual counseling sessions, are provided at the request of a member or employer. Each member receives a statement of his account annually. The statement includes total accumulated contributions, accumulated interest, account balance, creditable service totals, and a month-by-month report of the contributions received for the fiscal year.

All meetings of the Teachers' Retirement Board are required by law to be open to the public (MONT. CODE ANN. § 2-3-203) and the records of the Board's proceedings are open to public inspection (MONT. CODE ANN. § 19-4-201(3)), § 2-3-212 and § 93-10001-3). Any changes in MTRS rules, including proposed new rules, must be published for public review and comment under the Montana Administrative Procedures Act (MONT. CODE ANN. § 2-4-302).

A denial of benefits can be appealed to the Teachers' Retirement Board and, if not settled to both parties' satisfaction, will be resolved by a full hearing (MONT. CODE ANN. § 2-4-601).

Montana has a unified investment program under which the State Treasurer is the custodian of all of the state's public pension assets and of the securities in which the monies are invested (MONT. CODE ANN. § 19-4-501). Public pension plan assets are invested in-house by the Montana Board of Investments (MONT. CODE ANN.§ 19-4-501(1)). The Board is a quasi-judicial body comprised of five members, all appointed by the Governor, one of whom must be an attorney (MONT. CODE ANN. § 2-15-124). All members must be "informed and experienced in the subject of investments" (MONT. CODE ANN. § 2-15-1005). The Board of Investments is subjected to comprehensive oversight. It is audited annually through a contract auditor selected by the Legislative Auditor;[2] the current auditor is Giblin, Riggs & Associates, Colorado Springs, Colorado. In addition, the investment firm of Scudder, Stevens & Clark is retained to prepare performance comparisons of the fund.[3] The results of these assessments are included in the Board of Investment's annual report on overall investment performance. The report is available to anyone upon request to the Board of Investments.

The Board of Investments is required to administer the unified investment program in accordance with the prudent person rule.[4] The Montana Code specifies the kinds of investments and the permissible levels of investment that the Board is authorized to make. Prescribed investments include: bonds, notes, debentures, equipment obligations, and other absolute obligations; commercial paper; guaranteed bankers' acceptances; secured interest-bearing deposits; unencumbered real property, first mortgages, and participations therein; and investments in Montana business activity (MONT. CODE ANN. § 17-6-211). Moreover, any MTRS deposit that exceeds federal deposit insurance requires security of at

[1] The Legislative Council is comprised of four members of the House of Representatives appointed by the Speaker of the House (no more than two of whom may belong to the same political party), and four members of the Senate appointed by the Committee on Committees (no more than two of whom may be of the same political party) (MONT. CODE ANN. § 5-11-105).

[2] Audit reports are submitted to the Governor and the Legislative Audit Committee and are made available to the public the same day the report is heard by the Committee.

[3] Common stock performance on an annualized time weighted basis is compared to the A. G. Becker sample, the S & P 500, and the Dow Jones Industrial Average. Bond portfolio performances are compared to the A. G. Becker 1st Quartile, A. G. Becker Median, Shearson Lehman Corp. Index and Solomon Brothers Index.

[4] That is, it must exercise the "degree of judgment and care . . . which people of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived, and preservation of purchasing power of capital during periods of sustained high monetary inflation" (MONT. CODE ANN. § 17-6-201).

least 50 percent of the amount of such excess deposit (MONT. CODE ANN. § 17-6-102 and § 17-6-103).

The State of Montana guarantees payment of all annuities, pension refunds and other benefits. Section 19-4-104 provides: "regular interest charges payable, the creation and maintenance of reserves in the pension accumulation fund, and the maintenance of annuity reserves in the annuity reserve fund, . . . and the payment of all annuities, pensions, refunds, and other benefits granted under the retirement system are obligations of the State of Montana." Additionally, these benefits are exempt, *inter alia*, from execution, garnishment, and attachment by any process (MONT. CODE ANN. § 19-4-706).[5]

Montana has strong conflict of interest laws. "No member of the Retirement Board or any of its employees may have an interest, direct or indirect, in the gains or profits of any investment of monies in the retirement system [MONT. CODE ANN. § 19-4-502(1)(a)] [and] the assets . . . may not be used for or diverted to any purpose other than for the exclusive benefit of the members and their beneficiaries" (MONT. CODE ANN. § 19-4-502(2)). Nor can any member or employee of the Board "become an endorser or surety or in any manner an obligor for monies loaned or borrowed from the retirement system" (MONT. CODE ANN. § 19-4-502(1)(c)).

MONTANA CODE ANN. § 2-2-103 provides that a public officer, whose conduct departs from his fiduciary duty, is liable to the people of the State as a trustee of property is liable to a beneficiary under MONT. CODE ANN. § 72-20-203(2)). This means that a public official who violates his fiduciary duty must account for profits made, repay the value of the use of trust property, or if the property has been disposed of, replace it or account for the proceeds with interest. The County Attorney, where the trust is violated, may bring appropriate judicial proceedings on behalf of the people.

Rules of conduct for state officers and employees can be found in § 2-2-121. A person who fraudulently falsifies or permits to be falsified any record of the system is guilty of a misdemeanor and is punishable by $1,000 fine and/or one year in jail (MONT. CODE ANN. § 19-4-105). All Montana state officers and employees are bonded according to § 2-2-103. Bond limits for the MTRS are $1,000,000, while the limits for employees of the Treasurer's Office and Board of Investments are $2,000,000.

[5] Montana has guaranteed its own financial stability by a balanced budget amendment. Montana Constitution, Art. VIII, Section 9.

# NEBRASKA SCHOOL EMPLOYEES' RETIREMENT SYSTEM (NSERS)

Basic Facts:

- Number of active members: 25,486
- Number of retired members: 5,618
- Total assets: $335 million
- Monthly annuity payroll: $777,643

The Nebraska School Employees' Retirement System (NSERS) provides retirement coverage for all state public school employees whose services are engaged for at least half-time employment on an annual or continuing contract basis (NEB. REV. STAT. § 79-1501(26)). The System is administered by a six-member Retirement Board, which the Governor appoints subject to approval by the legislature (NEB. REV. STAT. § 84-1501).[1] The Board hires a director to manage the System (NEB. REV. STAT. § 84-1503(1)(b)). Board members serve three-year terms (NEB. REV. STAT. § 84-1501). The State Treasurer is the custodian of the funds and securities of the retirement system (NEB. REV. STAT. § 79-1506). The state investment officer (see below) is responsible for investing the System's funds.

NSERS is subject to vigorous oversight by the Nebraska Legislative Retirement Committee. The System is audited annually by the Auditor of Public Accounts, who submits an annual report of his findings to the Governor, the state investment officer (NEB. REV. STAT. § 72-1255), and each member of the legislature (NEB. REV. STAT. § 72-1508). In addition, Tillinghast, Nelson & Warren performs an annual actuarial valuation and conducts investigations into the actuarial assumptions and experience of NSERS (NEB. REV. STAT. § 84-1507). On the basis of the actuary's report, the Retirement Board determines the deposit the state must make to fund fully the service annuities earned during the fiscal year and to fund the unfunded accrued liabilities for all service annuities earned prior to that year (NEB. REV. STAT. § 79-1540).

The state investment officer is required to file monthly reports with the Governor, the State Treasurer, and the SIC on the previous month's operations. These reports are highly detailed and must include: "a summary of investment, reinvestment, purchase, sale, and exchange transactions, setting forth, among other things, the investments bought, sold, and exchanged, the dates thereof, the prices paid and obtained, the names of the dealers involved, and the statements for each fund"[2] (NEB. REV. STAT. § 72-1254). The investment officer is also required to file a monthly report with the Retirement Board setting forth the investment transactions made during the preceding month (NEB. REV. STAT. § 72-1253). The Retirement Board uses these reports to compile the NSERS annual report. The annual report, as well as the monthly reports, are available for public inspection or may be obtained from the office of the state investment officer (*id.*).

NSERS furnishes its members a summary plan description (SPD) in the form of a member handbook, which details the benefits program. The SPD is updated as needed to reflect major legislative changes in the system. NSERS also publishes a newsletter describing plan modifications as they occur. Counselors meet with members as requested to discuss and explain further the benefits available under the plan.

Furthermore, each participant receives an annual statement showing the status of his account. Any person denied benefits or otherwise aggrieved by a decision of the System's director is entitled to a hearing before the Retirement Board. A final order of the Board is subject to review by appeal to the district court for Lancaster County (NEB. REV. STAT. § 79-1544).

The Nebraska Investment Council (NIC) is responsible for the investment of NSERS funds, as well as the funds of other state agencies. The NIC consists of five members appointed by the Governor with legislative approval to overlapping five-year terms (NEB. REV. STAT. § 72-1237). NIC members "shall be persons of good character and high standing in the community who are well known for their judgment and experience in business and financial affairs" (NEB. REV. STAT. § 72-1238). The Council, subject to approval by the legislature, appoints a full-time state investment officer to invest all NSERS monies (NEB. REV. STAT. § 79-1556). The investment officer must be "well qualified by training and experience . . . in the management of investment portfolios" (NEB. REV. STAT. § 72-1240). The officer currently is assisted by the outside money management firms of Travelers Insurance Company and Provident Investment Accounts (NEB. REV. STAT. § 72-1242).

In investing NSERS's moneys, the state investment officer must exercise "that degree of care and skill, under the circumstances then prevailing, which a person of prudence would exercise in the management of the property of another, not for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived" (NEB. REV. STAT. § 72-1247). Within the prudent person rule, the investment officer is given considerable leeway; however, he may not buy on margin or buy put or call options. He may lend any security if cash, United States government obligations, or United States agency obligations with a market value equal to or exceeding that of the security lent are received as collateral (*id.*). A formal statement of NSERS investment policy is available to the public upon request.

Any person who knowingly falsifies or permits falsification of any NSERS record in an attempt to defraud the System is guilty of a Class II misdemeanor.

The investment officer and the other trustees and employees of the System are covered under a blanket

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[1] Three members are participants in NSERS and three may not be state employees or system members.

[2] The investment officer combines and pools the investable funds of all state agencies, and prorates interest earned in accordance with each fund's participation in the whole (NEB. REV. STAT. § 72-1267).

surety bond (NEB. REV. STAT. § 11-201). Both the Retirement Board and the Investment Council are governed by a strict open meetings statute (NEB. REV. STAT. § 84-1408).[3] Likewise, the minutes (NEB. REV. STAT. § 84-1413(5)) and records (NEB. REV. STAT. § 84-712) of NSERS and its administrative bodies are open to the public.

[3] Closed meetings may be held when the public body determines it is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual who has not requested a public meeting. Such situations might arise in strategy sessions involving real estate purchases or investigative proceedings regarding alleged criminal misconduct (NEB. REV. STAT. § 84-1410). Any member of a public body knowingly violating this provision is guilty of a Class V misdemeanor (NEB. REV. STAT. § 84-1414(4)).

# PUBLIC EMPLOYEES' RETIREMENT SYSTEM OF NEVADA (PERSON)

Basic Facts:

- Number of active members: 42,692
- Number of benefit recipients: 8,491
- Total assets: $1.45 billion
- Amount of monthly annuity payroll: $5.61 million

The Public Employees' Retirement System of Nevada (PERSON) is a statewide retirement system for teachers and public employees[1] (NEV. REV. STAT. § 286.010). The System is administered by a seven-member Board of Trustees appointed by the Governor (NEV. REV. STAT. § 286.120). Two members must be citizens who have resided in Nevada for the two years immediately preceding their appointments, neither of whom is currently or was during the preceding two years a public employee (NEV. REV. STAT. § 286.130(1)). Three members must have at least 10 years of public service in Nevada and be active members of the System or have retired or presently receive a disability allowance (NEV. REV. STAT. § 286.130(27)). And two members must be appointed from written nominations from public entities within the state[2] (NEV. REV. STAT. § 286.130(3)). Trustees serve four-year terms (NEV. REV. STAT. § 286.130(4)).

PERSON employs an Executive Officer, Assistant Executive Officer, and Administrative Assistant to manage its daily operations[3] (NEV. REV. STAT. § 286.170(1)). The Board also engages investment counsel to invest PERSON's funds[4] (NEV. REV. STAT. § 286.680(1)(3)). PERSON is audited biennially by the independent firm of Kafoury, Armstrong & Company (NEV. REV. STAT. § 286.190(2)(b)). The Board also enlists Martin E. Segal Company to perform a biennial actuarial valuation and report on the actuarial soundness of the System (NEV. REV. STAT. § 286.190(27(b)). In addition, PERSON is subject to vigorous legislative oversight. The Nevada Legislature maintains an Interim Retirement Committee when the legislature is not in regular or special session. The Committee reviews the operations of PERSON and makes recommendations for upgrading its performance to the Board of Trustees, the Legislative Commission, and the Legislature.[5] The Committee devotes one meeting during the legislative session to summarizing legislation affecting the retirement system during that session.

PERSON prepares an annual report that is distributed to the Governor, each member of the Legislature, each public employer, and each participating employer and employee association. The report is available to individual members upon request (NEV. REV. STAT. § 286.190(2)(c)). This document includes the actuarial valuation of the System, a description of the plan and significant legislative changes during the year, a statement of investment policy and objectives, a description of material lease commitments and contingent liabilities, a statement of receipts and disbursements for the year, and other data. In addition, PERSON furnishes each member a summary plan description (SPD) in the form of a Retirement Guide. The SPD is updated after each legislative session, or more frequently, if needed, to reflect amendments to the System.

PERSON also furnishes each member of the System annually an individual statement of account. The statement includes the amount of the member's contributions and any changes that may have been legally authorized (NEV. REV. STAT. § 286.260(1)). PERSON participants have the right to appeal any denial of, or error in calculation of, benefits and to have the records corrected (NEV. REV. STAT. § 286.190(3)(a)).[6]

The State Code defines the criteria for investment counselors. Each counselor must have five years' experience in rendering investment supervisory services, must be registered as an investment advisor under federal law, and can only be hired pursuant to a contract that is voidable at any time. Additionally, no investment counselor may be a broker or other business receiving commissions for transactions performed as agent for the Board (NEV. REV. STAT. § 286.680(2)). The current investment counselors to the System include Criterion Investment Management, Inc. (bonds and common stocks), Invesco Capital Management, Inc. (common

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[1] PERSON subsumes two retirement programs — one for policemen and firemen (NEV. REV. STAT. § 286.225) and another for other public employees (NEV. REV. STAT. § 286.220). Public employees include public officers of Nevada or its political subdivisions, and "any person employed by a public employer whose compensation is provided by the public employer and who is under the direction or control of officers of the public employer" (NEV. REV. STAT. § 286.040(1)). Membership is mandatory for all public employers and employees (NEV. REV. STAT. § 286.290).

[2] These entities include: the University of Nevada System; the academic staff of school districts; employees of cities and counties; employees of county hospitals, public utilities, power and sanitation districts; and classified school employees. Nominees must be members of their nominating groups and the System (NEV. REV. STAT. § 286.130(3)(a-e)).

[3] The Executive Officer must be a college graduate with a degree in business or public administration, and must "possess at least five years' experience in a high-level administrative or executive capacity, responsible for a variety of administrative functions such as retirement, insurance, investment or fiscal operations" (NEV. REV. STAT. § 286.160(3)). The Assistant Executive Officer must be a graduate of a four-year college or university with a degree in business or public administration (NEV. REV. STAT. § 286.160(4)).

[4] The Board may also employ investment supervisory services, trust audit services, and other related investment services which it deems necessary effectively to invest and safeguard the monies in the System's funds (NEV. REV. STAT.§ 286.680(1)). The Board is required to tender invitations to all Nevada banks for commercial banking and trust services, consider proposals submitted by interested banks, and consider contracts for commercial banking and trust services at least every three years. It must do the same for qualified investment counsel (NEV. REV. STAT. § 286.680(6)).

[5] The Committee is composed of three members of the Senate (one of whom chairs the Finance Committee and two of whom are appointed by the Senate majority leader) and three members of the Assembly (one of whom chairs the Ways and Means Committee and two of whom are appointed by the Speaker) (NEV. REV. STAT. § 286.113(1)).

[6] Retirement allowances and benefits vest after 10 years of service (NEV. REV. STAT. § 286.6793(1)) and no statutory amendment or revision may impair any vested allowance or benefit (NEV. REV. STAT. § 286.6793(2)).

stocks), Loomis-Sayles & Company, Inc. (common stocks), and Wm. M. Mercer-Meidinger, Inc. (investment consultant).

The PERSON Trustees meet monthly with investment counsel to review investments and to approve changes in the portfolio (NEV. REV. STAT. § 286.287). The Trustees' investment activities are governed by the "prudent man" standard, which permits "every kind of investment which men of prudence, discretion and intelligence acquire or retain for their own account" (NEV. REV. STAT. § 286.682). In addition, the administration of investments must "assure the highest return consistent with safety in accordance with accepted investment practices" (NEV. REV. STAT. § 286.220(2)).[7] Statutory provisions specifically authorize certain investments, including real property and real property mortgages,[8] and leases (NEV. REV. STAT. § 286.686(1)).[9] The System has adopted a statement of investment policy and objectives, which is available to the public upon request. Overall investment performance is assessed by Shaw Data Services, Inc. Each member of the Retirement Board and of the PERSON staff is bonded at $200,000.

PERSON Board meetings are open to the public, except those with legal counsel and those establishing investment policy (NEV. REV. STAT. § 241.020). Moreover, the rules and regulations of the Board for transacting business and administering the System are subject to strict scrutiny. Proposed rules must be delivered within 30 days of their proposition to all participating public employers, who must post the same at their headquarters (NEV. REV. STAT. § 286.200(a-b)). At least 15 days later, the Board must hold a hearing at which all interested persons are given the oportunity to be heard before a vote is taken (NEV. REV. STAT. § 286.200(d)). A copy of the final rule must be filed with the Secretary of State (NEV. REV. STAT. § 286.200(e)).

PERSON conducts an extensive public information and education program. A staff member travels quarterly to Las Vegas to direct pre-retirement counseling seminars. PERSON staff also quarterly visit locations apart from the Reno/Carson City and Las Vegas metropolitan areas for this purpose. Meetings are scheduled throughout Nevada within four months of the end of each legislative session to inform the membership on changes in the law. During the 1983-84 fiscal year, 4,027 members attended 138 such programs. PERSON publishes a newsletter which reports on investment performance, loan status, legislation, Board activities, and other pertinent matter.

All PERSON records are made available to the public under Nevada's Freedom of Information Act (NEV. REV. STAT. § 239.010). Any person who knowingly makes a false statement, certifies to an incorrect document or withholds information for the purpose of receiving or assisting another's receipt of unentitled benefits is guility of a gross misdemeanor (NEV. REV. STAT. § 286.820).

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[7] The Board and its members are not liable for the investment decisions of investment counsel if "they obtain qualified investment counsel, establish proper investment objectives and policies, and issue appropriate interim directives." Investment counsel is liable for investment decisions which fail to accord with Board objectives, policies, and directives (NEV. REV. STAT. § 286.680(4)). The chief of the Budget Division for the Department of Administration advises the Governor on the System's administrative policies and performance (NEV. REV. STAT. § 286.282).

[8] The Board may invest in real property mortgages or deeds of trust up to 80 percent of the appraised value of the real property if the mortgage or deed of trust is secured by a first lien on the property (NEV. REV. STAT. § 286.686(2)).

[9] PERSON is prohibited from investing in securities of companies doing business in South Africa except for those companies that are "making good progress" in conforming to the Sullivan Principles.

# NEW HAMPSHIRE RETIREMENT SYSTEM (NHRS)

Basic Facts:

- Number of active members: 31,895
- Number of benefit recipients: 7,183
- Total assets: $5.36 million
- Monthly annuity payroll: $1.9 million

The New Hampshire Retirement System (NHRS) provides retirement benefits for two groups. Group I includes state and local employees and teachers[1] (N. H. REV. STAT. ANN. § 100-A:1(X)(a)); group II covers permanent policemen and firemen (N. H. REV. STAT. ANN. § 100-A:1(X)(b)). Classified employees join NHRS as a condition of employment (N. H. REV. STAT. ANN. § 100-A:3 (I)). Although the assets of all covered systems are invested as a single fund, NHRS maintains separate fund balances for each membership classification (N. H. REV. STAT. ANN. § 100-A:16).

NHRS is administered by an 11-person Board of Trustees. Eight members are appointed by the Governor from the respective member classes (two each from employees, teachers, policemen, and firemen).[2] The State Bank Commissioner serves as an ex-officio Board member. And two non-member trustees are appointed for their business experience. All trustees serve two-year terms (N. H. REV. STAT. ANN. § 100-A:14(I)). An Executive Secretary is hired by the Board to handle the daily management of the System (N. H. REV. STAT. ANN. § 100-A:44).

Legislative oversight of NHRS is provided by the House and Senate Appropriations Committees. The System is audited annually by the State Legislative Budget Assistant or by an independent firm (N. H. REV. STAT. ANN. § 100:A-14). The Board employs George B. Buck Consulting Actuaries, to perform a full actuarial valuation biennially[3] (N. H. REV. STAT. ANN. § 100-A:14(X)). At least once every five years, an experience study is conducted of the mortality, service, compensation, and interest assumptions of the System (N. H. REV. STAT. ANN. § 100-A:14 (IX)).

The audit and actuarial reports are incorporated into an annual report that also includes information on NHRS' fiscal transactions, the System's accumulated cash and securities, and the latest balance sheet showing the financial condition of the System by means of the actuarial valuation of its assets and liabilities (N. H. REV. STAT. ANN. § 100-A:14(VII)). The annual report, like other NHRS reports, is filed with the Secretary of State, who makes it available to employers, members, and to the public (N. H. REV. STAT. ANN. § 100-A:14(VII)). NHRS also prepares a biennial report on the status of NHRS for the Legislature that includes recommendations for changes in the System (N. H. REV. STAT. ANN. § 100-A:14 (IX)).[4]

NHRS provides every member an annual statement of account. The statement includes the amount of earnable compensation, contributions deducted, and interest credited on contributions during the previous fiscal year; the total of the member's annuity savings fund; the member's date of birth; his accrued service credits; and other relevant information (N. H. REV. STAT. ANN. § 100-A:14(XI)).

Pursuant to its rulemaking authority, NHRS has instituted rules whereby members may appeal decisions affecting their benefits. The System's rules are subject to review by the Joint Legislative Committee on Rules. In addition, the System distributes to members through participating employers a summary plan description (SPD) in the form of a member information package. The information packages are rewritten after each session of the New Hampshire legislature to reflect amendments to the plan. And, NHRS field service personnel regularly conduct workshops and briefings to update the membership on NHRS's progress and on their benefits. NHRS periodically distributes a newsletter through employers.

The Board of Trustees is charged with investing NHRS' assets (N. H. REV. STAT. ANN. § 100-A:15). The Board is authorized to deal in statutorily approved investments, subject to the restrictions imposed on domestic life insurance companies.[5] The Board is further charged with investing NHRS funds, to the extent possible, in a manner that will benefit the state's economic climate, provided such investments are "consistent with sound investment practices" (N. H. REV. STAT. ANN. § 100-A:15(I)).

The NHRS trustees have a formalized, written investment policy with which each outside investment coun-

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[1] "Teacher" means "any regular or special teacher, principal, supervisor or administrator, librarian or other member of the teaching or professional staff engaged in the service of the public elementary and secondary schools located within the state and supported by and under the control of the state, the local school district, or other employers of teachers eligible for membership in the system" (N. H. REV. STAT. ANN. § 100-A:1(VI)). The New Hampshire Teachers' Retirement System merged into and became part of the NHRS on July 1, 1973 (N. H. REV. STAT. ANN. § 100-A:35). Although a few local retirement entities operate in the state, the overwhelming majority of New Hampshire's political subdivisions participate in the statewide system.

[2] Each class nominates a panel of five members, all active in the retirement system, from which the Governor selects two (N. H. REV. STAT. ANN. § 100-A:14).

[3] N. H. REV. STAT. ANN. § 100-A:1(XXIX) requires the actuary to be "(a) a member of the American Academy of Actuaries or (b) an individual who has demonstrated to the satisfaction of the state insurance commissioner that he has the educational background necessary for the practice of actuarial science and has had at least seven years of actuarial experience."

[4] In addition, the Executive Secretary is required to notify the selectmen of all towns, all city councils, and the superintendent or chief fiscal officer of all school districts within 10 days of the introduction and within 30 days of the enactment of any legislative measure relative to the retirement system which would affect costs to cities, towns, or school districts (N. H. REV. STAT. ANN. § 100-A:14(XII).

[5] "Domestic life insurance companies may invest in eight types of assets, including U.S. bonds, savings banks securities, and FHA loans (N. H. REV. STAT. ANN. § 411.15). Investments may also be made in cooperative bank and building and loan association shares. Up to 15 percent of assets may be invested in securities not permitted to life insurance companies but which are nonetheless "prudent investments" (N. H. REV. STAT. ANN. § 100-A:15).

selor must comply.[6] The Board also employs Irving Trust Company as custodian of the fund. Quarterly investment performance reviews are conducted with the assistance of SEI Evaluation Services, Incorporated. The quarterly reviews are available to both the membership and the public.

All meetings of the Board of Trustees are open to the public (N. H. REV. STAT. ANN. § 91-A:1-a). Widely circulated notice is provided at least seven days before each meeting, and must be printed in a newspaper at least 24 hours in advance (N. H. REV. STAT. ANN. § 91-A:2). Records and minutes of the Board are available for public inspection (N. H. REV. STAT. ANN. § 91-A:4).

NHRS Trustees and staff are prohibited from having any personal interest in any investment made by the Board. Nor may they become endorsers or sureties, or in any manner obligors, for money loaned to or borrowed from the Board (N. H. REV. STAT. ANN. § 100-A:15(III)). Any person who knowingly falsifies, or permits to be falsified, any NHRS record, in an attempt to defraud the System, is guilty of a class B felony under New Hampshire law (N. H. REV. STAT. ANN. § 100-A:27). Before assuming office, the NHRS Executive Secretary must be bonded in the sum of $20,000 (N. H. REV. STAT. ANN. § 100-A:45). The Trustees and NHRS staff are covered under a self-insured blanket liability policy for $100,000.00 Judgment in excess of the policy limit may be litigated in a civil action.

Participants in and beneficiaries of the NHRS System have added protection in that the Constitution of New Hampshire was recently amended to require the annual full actuarial funding of NHRS. Further, the New Hampshire Supreme Court recently held that NHRS is an incorporated pension trust and not an agency or department within the executive branch [*The New Hampshire Retirement System v. John H. Sununu*, No. 84-143, slip op. (N.H. Supreme Court, February 15, 1985)].

[6] The current counsel include: State Street Research & Management Company; Putnam Advisory Company, Inc.; Investment Advisors, Inc.; Invesco Capital Management, Inc.; Indian Head National Bank; Bank East Trust Company; Trustee & Investors Company, Inc.; Provident Investment Counsel, Inc.; Fred M. Alger Management Company; and Hellman, Jordan Management Company, Inc. Outside counselors are authorized by N.H. REV. STAT. ANN. § 100-A:15(I-a).

# TEACHERS' PENSION AND ANNUITY FUND OF NEW JERSEY (TPAF-NJ)

Basic Facts:

- Number of active members: 108,451
- Number of annuitants: 28,049
- Total assets: $6.9 billion
- Amount of monthly annuity payroll: $20.5 million

The Teachers' Pension and Annuity Fund of New Jersey (TPAF-NJ) is managed by a seven-member Board of Trustees, the composition of which is set by statute (N.J. STAT. ANN. § 18A:66-56) (WEST)). The Board membership consists of the State Treasurer or Deputy State Treasurer, two persons appointed by the Governor from the public at large, three trustees elected from among the active members of the TPAF-NJ, and one other representative of the public chosen by the other trustees, excluding the State Treasurer (*id.*). The TPAF-NJ administers the benefit program for the fund but does not have responsibility for investment decisions (N.J. STAT. ANN. § 18A:66-61 (WEST)). Investment decisions are made by the Division of Investment, Department of the Treasury, which is under the jurisdiction of the State Investment Council. The Division of Investment is audited annually by Ernst & Whinney and by the State Auditor in the Office of Fiscal Affairs. Actuarial valuations are conducted annually by the George B. Buck Company.

The 10-person State Investment Council[1] formulates investment policies and procedures to be followed by the Director of the Division of Investment and his staff. These regulations are published in the New Jersey Register and are on file with the Secretary of State; in addition, the Director of the Division prepares a monthly report of all transactions effected by the Division. The report, which lists all sales, purchases, exchanges and commissions paid by the Division for all of its transactions, is provided to the Legislature, State officials, the press and the public (N.J. STAT. ANN. § 52:18A-92 (WEST)).

The TPAF-NJ publishes a summary plan description (SPD), which is updated on a regular basis to reflect major modifications to the plan. The latest update was completed in 1983. State law also requires the Board of Trustees to publish an annual report showing the assets, liabilities, cash and accumulations of the fund. Copies of this report are available to plan members through their employers (N.J. STAT ANN. § 18A:66-59 (WEST)).

In addition to the monthly statement of transactions and the annual report of the Board of Trustees, the State Division of Investments publishes a separate annual report, which is available upon request. The State Division of Investments makes its audited financial statements and the statistical supplement to those statements available to any member of the public upon request under New Jersey's Freedom of Information law (N.J. STAT. ANN. § 41:1A-2 (WEST)); in addition, the meetings of the State Investment Council are governed by the state's sunshine act and are open to the public (N.J. STAT. ANN. § 10:4-12a (WEST)). Under plan policy, participants are entitled to an annual statement of their individual benefit status. Any member denied benefits or otherwise aggrieved by a decision of the Board of Trustees has the right to an administrative appeal.

The State Division of Investment's decisions are regulated by state law and by regulations promulgated by the Investment Council. A formal statement of investment policy is available to the public. Permissible investments include: obligations of the United States government, certain obligations of the Canadian government, and bonds and other evidence of indebtedness which are authorized investments for savings banks in New Jersey. Recently the law was amended to permit investment in property of any nature, provided the fiduciary (the Director of the Division of Investments) exercises that degree of care and judgment under the circumstances then prevailing which persons of ordinary prudence and reasonable discretion would exercise (N.J. STAT. ANN. § 3B:20-12 (WEST)). Performance of the TPAF-NJ portfolio is monitored by SEI Funds Evaluation Services, Merrill Lynch, and INDATA.

Current regulations of the State Investment Council limit the investments in common stock to not more than 25% of the book value of any one pension fund; the regulations also set criteria for investments in long-term and short-term debt obligations. In regard to mortgages, Council regulations require that, in almost all cases, the securities must be directly or indirectly guaranteed by the federal government.

The New Jersey Code prohibits members from profiting from their services on the Council; also the State has a strong conflict of interest law that applies to all governmental officials, including the Director of the Division of Investments and his staff.[2] Additionally members and employees are prohibited from profiting from the investments of the TPAF-NJ or from being endorsers, sureties or obligors for any monies loaned to or borrowed from the Board (N.J. STAT. ANN. § 18A:66-60 (WEST)). New Jersey law makes it a misdemeanor for any person to falsify, or permit the falsification of, any record of the TPAF-NJ in an attempt to defraud it (N.J. STAT. ANN. § 18A:66-64 (WEST)).

[1] Five members of the Council are appointed by the Governor and five are appointed by the state's five pension systems. At least three of the Governor-appointed members must be qualified by training and experience in the field of investment and finance. The Council nominates candidates for the job of Director of the Investment Division; the State Treasurer makes the final selection (N.J. STAT. ANN. § 52:18A-83 (WEST)).

[2] The Director of the Division of Investments has a minimum bond requirement of $100,000 (N.J. STAT. ANN. § 52:18A-93 (WEST)).

# NEW MEXICO EDUCATIONAL RETIREMENT SYSTEM (NMERS)

Basic Facts:

- Number of active members: 44,261
- Number of benefit recipients: 8,621
- Total assets: $929 million
- Amount of monthly annuity payroll: $3.67 million

The New Mexico Educational Retirement System (NMERS) provides a mandatory statewide retirement program for classified members[1] (N. M. STAT. ANN. § 22-11-16). Responsibility for NMERS and all pension-related matters lies in the legislature with the Legislative Finance Committee. The Committee annually reviews NMERS' operations in the course of approving the budget for the Educational Retirement Board which administers the System.

The Educational Retirement Board is a state agency composed of seven members (N. M. STAT. ANN. § 22-11-3). Board members include the Superintendent of Public Instruction, the Director of Public School Finance, the State Treasurer, one member elected by the New Mexico Educational Association, one member elected by the New Mexico members of the American Association of University Professors, and two members appointed by the Governor. Elected and appointed members serve four-year terms (N. M. STAT. ANN. § 22-11-3).

The State Auditor performs an annual audit of NMERS, the results of which are included in the System's annual report. The Board enlists Coates, Herfurth & England, Inc. to conduct an actuarial valuation of NMERS's assets and liabilities every odd-numbered year. All reports are filed with the New Mexico Legislature (N. M. STAT. ANN. § 22-11-6). The actuary also conducts periodic experience studies of the actuarial soundness of the System and files written reports with the Board (N. M. STAT. ANN. § 22-11-9).

NMERS publishes an annual report of the fund's fiscal transactions for the preceding year that shows the accumulated cost and securities of the System and presents a detailed balance sheet reflecting its financial condition. The report is distributed to all state legislators and is available to participants upon request. All other records pertinent to NMERS are available under New Mexico's Freedom of Information Act (N.M. STAT. ANN. § 14-2-1). The meetings of the NMERS Board and private investment advisors are open under the state's Sunshine Law (N. M. STAT. ANN. § 10-15-1).

Each NMERS member receives a summary plan description (SPD) of NMERS. The System mails notices and descriptions to participants of major plan modifications as they occur. The System conducts an education/information program including various publications, statewide retirement seminars, and extensive individual counseling. Additionally, the Board furnishes participants and their beneficiaries an annual statement of their individual benefit status as a matter of policy.[2] Members may appeal a denial of benefits pursuant to Board rules.

The State Treasurer, along with Irving Trust, is the custodian for NMERS funds (N. M. STAT. ANN. § 22-11-11). The Board is authorized to invest the System's assets (N. M. STAT. ANN. § 22-11-13(a)), with the advice of the State Investment Council (SIC) and private investment advisors (N. M. STAT. ANN. § 22-11-13(E)).[3] In making investments, Board members are held to a prudent man standard (N. M. STAT. ANN. § 22-11-13(c)). New Mexico law specifies permissible categories of investment (N. M. STAT. ANN. § 22-11-13) and sets limits on the permissible level of investment for certain categories.[4] In general, the System may invest in: obligations of the United States and of New Mexico and its political subdivisions; bonds, debentures and other obligations issued or guaranteed by any national mortgage association; obligations issued by a federal and/or intermediate credit bank; bonds, notes, debentures, cartrust certificates, and preferred or common stock of corporations; industrial revenue bonds; notes securing loans to New Mexico businesses; and obligations secured by first-lien mortgages (N. M. STAT. ANN. § 22-11-13). The System also has adopted a written statement of investment policy, which is available upon request to the public. The Board employs DeMarche & Associates to evaluate the performance of the NMERS portfolio.

No member or employee of the Board may have any interest, directly or indirectly, in the gains or profits of any NMERS investment. Employees and Board members are also prohibited from being endorsers, sureties, or obligors for monies loaned or borrowed by the Board, and from borrowing or otherwise using System assets (N. M. STAT. ANN. § 22-11-14). The Director is required by law to obtain a minimum $25,000.00 official bond payable to the retirement fund and conditioned upon the faithful performance of his duties. The Board also covers the Directors and NMERS employees by a schedule or blanket corporate surety bond for four-year periods (N. M. STAT. ANN. § 22-11-7).

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[1] Members include persons regularly employed as teaching, nursing, or administrative employees of a state eduational institution, the New Mexico boys' school, the girls' welfare home, the Los Lunas Mental Hospital or a school district; certified employees of the Department of Education, the Educational Retirement Board, or the Public School Finance Division; and certified employees of the New Mexico Activities Association (N. M. STAT. ANN. § 22-11-2).

[2] The statement includes members' creditable service and contributions to the plan. The Board is presently engaged in formulating a more comprehensive statement of account.

[3] The SIC is a subcommittee of the Board of Trustees, composed of the Director and two other Board members. The committee enlists the investment advice of Von, Nelson, Scarborough & McConnell of Houston, Texas.

[4] Not more than 10 percent of the voting stock of a single corporation may be held by the System; not more than 75 percent of the assets may be in corporate stock and bonds (N. M. STAT. ANN. § 22-11-13).

# NEW YORK STATE TEACHERS' RETIREMENT SYSTEM (NYSTRS)

Basic Facts:

- Number of active members: 180,000
- Number of benefit recipients: 57,000
- Total assets: $13 billion
- Amount of monthly annuity payroll: $44 million

The New York State Teachers' Retirement System (NYSTRS) is an agency of the State of New York,[1] which provides a statewide retirement program covering all state and local public employees.[2] It retains Coopers & Lybrand as its independent auditor and Albert Alazraki as its actuary; audits and actuarial valuations are performed annually.

NYSTRS's nine-person board[3] employs its own professional investment staff, and retains private sector investment managers and investment advice. The System has both an Investment Advisory Committee and a Mortgage Advisory Committee to assist in the making of security, mortgage, and real estate investment decisions. These committees are made up of outside consultants who are selected by the Retirement Board and the NYSTRS Executive Director based upon their expertise in the applicable investment area. The members of these committees include, for example, executives from banks, insurance companies, and investment firms. The System has six outside equity investment managers and one outside bond investment manager.

NYSTRS also uses the services of Buck Pension Fund Services, Inc., a pension fund consulting firm, which assists in the selection of investment managers capable of aiding the System in implementing its carefully diversified investment policy. Buck also assesses investment performance by components to determine whether the outside managers are producing positive investment results in their areas of expertise.

NYSTRS is subject to extensive legislative oversight by two committees in each house of the New York State Legislature. In the Senate, the Civil Service and Pensions Committee analyzes and makes recommendations in regard to the substantive provisions of proposed pension bills, and the Senate Finance Committee examines the costs of such bills. These functions are performed in the Assembly by the Government Employees Committee and the Ways and Means Committee, respectively. In addition, the Legislature has established a Permanent Commission on Public Employee Pension and Retirement Systems (see Article 27 of the Executive Law). The Commission, which can issue subpoenas and hold hearings, is authorized to analyze benefits and costs; to study ways of improving effectiveness and operation of public retirement systems (which include investments); and to propose remedial legislation. Finally, the Legislature maintains overall supervisory control over the rulemaking process by requiring each agency, including NYSTRS, to submit proposed new rules to the Administrative Regulations Review Commission for its review (Executive Law § 101-a). The proposed regulations must be accompanied by a statement of the underlying statutory authority and consequent fiscal impact.

In the Executive Branch, the Insurance Department of New York State is charged with supervision of NYSTRS (N. Y. EDUC. LAW § 523). The Insurance Department is given the power (N. Y. INS. LAW § 36-a) to promulgate "standards with respect to actuarial assumptions, accounting practices, administrative efficiency, discharge of fiduciary responsibilities, investment policies and financial soundness." NYSTRS is required to file an annual report with the Insurance Department that includes, among other things, a comprehensive set of schedules delineating NYSTRS' assets and liabilities; its mortgage loans, stocks and bonds; all lawsuits brought against NYSTRS, as well as any other delayed or unsettled claims, with explanations thereof; and NYSTRS' expenses. Based upon the Insurance Department's annual examination, as well as an even more comprehensive examination that the Department makes on a quinquennial basis (including an analysis of the System's investment performance), the Department issues a report and makes recommendations regarding the System's operations.

The New York State Department of Audit and Control also has supervisory responsibilities in regard to NYSTRS. It audits the System's proposed purchasing expenditures in advance of any payment of funds. It also reviews the accuracy of the computations reflecting the amount to be expended for the purchase of securities in advance of purchases, and it conducts post audits on the System that include an analysis of the System's investments.

The New York State Treasurer is the statutory custodian of NYSTRS' funds. Once each year, the Treasurer is required to do a physical audit of the securities that he holds for NYSTRS.

NYSTRS annually publishes and provides its members with a summary plan description (SPD) which is updated regularly to reflect major modifications. NYSTRS also makes a compilation of the relevant laws available

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[1] *See East Hill, Inc. v. New York State Teachers' Retirement System*, 80 A.D.2d 670, *motion for leave to appeal denied*, 53 N.Y.2d 604 (1981); *New York State Teachers' Retirement System v. Srogi, et al.*, 84 A.D.2d 912, *aff'd*, 56 N.Y.2d 690 (1981). NYSTRS possesses the powers and privileges of a corporation (N. Y. EDUC. LAW § 521). It is not, however, the State of New York itself.

[2] There are no local teachers' retirement systems in New York State other than in New York City. Except for organizational matters which fall under local statutes, however, the laws controlling NYSTRS apply to all New York City teachers who join that system on or after July 1, 1976 (N. Y. RETIRE. & SOC. SEC. LAW §§ 14, 15).

[3] The NYSTRS board by statute must include: an executive officer of a bank authorized to do business in New York; members of a New York School Board who must have financial experience; administrative officers of the New York State School System; representatives of the System's membership; and the State Controller or his authorized agent (N. Y. EDUC. LAW § 504).

to the public (the laws are also available in any New York public library as well as in large school systems).

All records of the NYSTRS Board, including reports filed with Legislative or Executive Departments, are available under the state's Freedom of Information Act (N.Y. PUB. OFF. LAW § 85) and statutes specifically governing NYSTRS (N.Y. EDUC. LAW § 508(6)). Board meetings are also open to the public (N.Y. PUB. OFF. LAW § 97). In an effort to explain its operations and respond to public inquiries, NYSTRS provides extensive additional information services. The System conducts individual consultations for members at 26 locations throughout New York. During the 1983-84 school year, more than 6,000 members met with NYSTRS information representatives at these locations, and another 3,000 visited its offices in Albany, New York. NYSTRS also conducts approximately 75 group workshops and seminars throughout the State. In order to keep members and retirees regularly informed of changes affecting the System as well as other pertinent matters, NYSTRS publishes quarterly newsletters that it sends to each plan participant.

In addition, NYSTRS publishes an annual report (N. Y. EDUC. LAW § 508(7)) indicating not only the condition of the various funds under its control but also "certifying to the accumulated cash and securities of the funds" and "giving an account of the operation of the system." The report is distributed to the approximately 800 delegates who are elected by the System's members to represent them at their annual meeting at which they elect three teacher members to the Retirement Board. The report is also sent to chief school administrators, New York's federal and state legislators, and the school board of participating employers.

The System is also required at least once in each quinquennial period to "have its actuary prepare a report showing a complete valuation of the present and prospective assets and liabilities of the various funds" it maintains, as well as a full report on the mortality and service experience of NYSTRS' members and estimated future investment earnings with recommendations for the "proper operation of the retirement system" (N. Y. EDUC. LAW § 508(5)).[4] These documents, taken together, provide a highly detailed picture of the operations and performance of the System.

By law (N. Y. EDUC. LAW § 508(4)), NYSTRS makes a statement of individual benefit status available to members on an annual basis. In fact, NYSTRS provides each member with an annual statement which is far more comprehensive than that which is required by statute. NYSTRS' annual statement advises members, among other things, of their reported employment and salary for the preceding year, service credit history, annuity savings, loans, and designated beneficiary; it also provides members with estimates of service, deferred, disability and death benefits to which they are or may become entitled. In cases of adverse benefit determinations by NYSTRS, affected persons have the right to review in a court of general jurisdiction (N. Y. CIV. PRAC. LAW. § 78) or, where issues of fact are presented, to a trial (N. Y. CIV. PRAC. LAW § 7804(h)).

NYSTRS board members operate as trustees of the fund assets (N. Y. EDUC. LAW § 508(a)).[5] With respect to 95 percent of its assets, state law specifies the classes of investments that may be acquired, which are generally those permitted to savings banks (including, for example, U.S., state and certain local bonds, notes, realty, mortgages, etc.), with certain specific limitations (*id.*). State law permits the board to act in accordance with the prudent person standard for the remaining five percent of the System's assets.[6] NYSTRS maintains written statements of its investment policies, which are available to the public upon request.

NYSTRS has vigorous restrictions on self-dealing that apply to employees as well as board members. These prohibit any direct or indirect gain or profit from board investments, any borrowing or use of funds for members, their corporations or employees, and any role as surety, guarantor, or endorser for monies loaned or borrowed by the board (N. Y. EDUC. LAW § 508(3)). In addition, NYSTRS' board and employees are subject to the state code of ethics that applies to all public officers in the state.[7]

All NYSTRS employees are covered under a state blanket bond. In cases of breach of fiduciary duty, the guilty individual could face a misdemeanor or felony prosecution under New York's Penal Law, depending on the nature of the breach. Any person who knowingly falsifies or permits to be falsified any NYSTRS record is guilty of a misdemeanor (N. Y. EDUC. LAW § 525).

Pursuant to Article V, § 7 of the New York State Constitution, membership in NYSTRS constitutes a contract, the benefits of which may not be diminished or impaired.[8] In addition, the legislature has provided for the effective funding of NYSTRS benefits through actuarial requirements (N. Y. EDUC. LAW § 517) and by providing NYSTRS with rights to obtain monies necessary to maintain its funding, which are tantamount to taxing power (N. Y. EDUC. LAW § 521).

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[4] As noted above, NYSTRS additionally prepares and submits to the Insurance Department a comprehensive report detailing all investments made during the year.

[5] If the NYSTRS board delegates investment authority to another investment manager or other fiduciary, strict reporting procedures must be followed to ensure conformance with fiduciary standards and investment policies.

[6] Under that standard, investments must be made ". . . in a manner consistent with those of a reasonably prudent person exercising care, skill and caution."

[7] NYSTRS is not prohibited from acquiring securities issued by participating employers; however, it generally prefers not to get involved in such investments.

[8] The New York Court of Appeals, the state's highest court, has liberally construed this constitutional guarantee to the benefit of members and retirees of public retirement systems. For example, the Court of Appeals has held that the legislature may not make a member's benefits temporary [*Public Employees' Federation v. Cuomo, et al.*, 62 N.Y.2d 450 (1984)]; that a member is entitled to the actuarial tables in effect at the time the member joined a public retirement system, irrespective of subsequent changes in mortality experience [*Birnbaum v. New York State Teachers' Retirement System*, 5 N.Y.2d 1 (1958)]; and that an interest rate is constitutionally guranteed for the entire membership [*Cashman v. Teachers' Retirement Board*, 193 Misc. 57, *aff'd*, 275 App. Div. 908, *aff'd*, 301 N.Y. 501 (1950)].

# NORTH CAROLINA TEACHERS' AND PUBLIC EMPLOYEES' RETIREMENT SYSTEM (TPERS)

Basic Facts:

- Number of active members: 235,320
- Number of annuitants: 48,852
- Total assets: $5.7 billion
- Amount of monthly annuity payroll: $22.8 million

The Teachers' and Public Employees' Retirement System (TPERS) is administered by a 13-member Board of Trustees (N.C. GEN. STAT. § 135-6) that has full responsibility for the management of the TPERS' funds (N.C. GEN. STAT. § 135-7). The Board of Trustees is composed of the State Treasurer, the Superintendent of Public Instruction, two members of the State General Assembly and nine members appointed by the Governor. The Governor's appointees consist of one teacher, one retired teacher, one employee of the Board of Transportation, one representative of higher education, one general state employee, one retired state employee and three members of the general public (N.C. GEN. STAT. § 135-6). Standing Committees on Pensions and Retirement oversee the operations of TPERS in both houses of the legislature.

TPERS is audited each year by the State Auditor and is reviewed for actuarial soundness by George B. Buck & Company, Consulting Actuaries. This actuary annually values the assets and liabilities of the system and at least once in each five-year period conducts an investigation into the mortality, service and compensation experience of the system (*id.*).

The Board of Trustees is required by law to publish an annual report which shows the fiscal transactions of the system during the preceding fiscal year and the amount of accumulated cash and securities, and contains a balance sheet showing the financial condition of the system (*id.*). The Board publishes three reports that, taken together, meet this responsibility. These are: the auditor's report, the actuarial report, and the investment report to the General Assembly. Copies of these reports are available to all participants and beneficiaries of the system and are given to all legislators, the Governor, employee associations and employers.

The Board of Trustees furnishes each participant with a summary plan description (SPD), a handbook explaining the TPERS retirement benefits, a written description of recent plan modifications, and an annual individual statement of account. Each spring, TPERS conducts conferences throughout the state at which benefits and procedures are discussed in detail with plan members. Additional information about the TPERS and its operations can be obtained by inspecting the the Board's records, which are publicly available (N.C. GEN. STAT. § 135-6), or by requesting the pertinent records under the North Carolina public records law (N.C. GEN. STAT. § 132-1). Board meetings also are open to the public (N.C. GEN. STAT. § 143-318.10).

The State Treasurer has custody of TPERS assets and is responsible for investing them (N.C. GEN. STAT. § 135-7(c)). State law authorizes investments in any obligations of, or fully guaranteed by, the United States, obligations of the State of North Carolina, obligations of such entities as the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association and the Farmers' Home Administration, certificates of deposit issued by financial institutions organized in North Carolina (but not in excess of the amount insured by agencies of the federal government), general obligations of other states, general obligations of North Carolina cities, counties and special districts, notes secured by mortgages insured by the Federal Housing Administration or guaranteed by the Veterans Administration on real estate located in North Carolina, and certain preferred and common stocks in corporations incorporated within the United States (*id.*).

The State Treasurer has full power as a fiduciary to hold, transfer, purchase, sell, lend or dispose of any of the investments in which TPERS' funds have been invested, and to reinvest any proceeds (N.C. GEN. STAT. § 147-69.3). The Treasurer relies upon a six-member professional investment staff as well as private sector investment advisors and managers (Thorndike, Doran, Paine & Lewis, Inc., Alliance Capital Management Corp., First Citizens Bank & Trust Co., First Union National Bank, North Carolina National Bank and Wachovia Bank & Trust Co.) in carrying out his responsibilities. In regard to investments in preferred and common stocks, the State Treasurer is advised by a five-member Equity Investment Advisory Committee (N.C. GEN. STAT. § 147-69.2(c)).[1] At the end of each fiscal year, the Treasurer prepares a report on the financial condition of the system that is filed with the Board of Trustees and the State Auditor (N.C. GEN. STAT. § 147-69.3(h)). Additionally, the Treasurer must make an annual report to the General Assembly that includes a full and complete statement of the investments made with TPERS funds (N.C. GEN. STAT. § 147-69.3(i)). This latter report must show the nature and character of the investments and the revenues derived therefrom (*id.*).

Section 6 of the State Constitution mandates that the funds of the TPERS be kept inviolate and prohibits any diversion of the funds, including any loans to or usage by the state, any state agency, state officer, public officer or employee, except as permitted for investment purposes. State law also prohibits any trustee or any employee of the Board of Trustees from having any direct interest in the gains or profits from any investment made by the Board of Trustees and from applying those gains and profits in any manner other than for making current, necessary payments as authorized by the Board.

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[1] The membership of this Committee is composed of the State Treasurer, two members selected from among the trustees of the covered retirement systems and two members of the general public. The four non-ex officio members are selected by the State Treasurer.

It is also forbidden for any trustee or employee of the Board of Trustees to become an endorser, surety or obligor for any monies loaned or borrowed from the Board of Trustees (N.C. GEN. STAT. § 135-7). The misappropriation of funds by any officer, employee or agent of the state may be punishable as the felony of embezzlement (N.C. GEN. STAT. § 14-91). And, it is a misdemeanor to falsify, or permit the falsification, of any records of the system in an attempt to defraud the system (N.C. GEN. STAT. § 135-10). Board members and staff are bonded under a state employees blanket bond.

# NORTH DAKOTA TEACHERS' FUND FOR RETIREMENT (TFFR)

Basic Facts:

- Number of active members: 10,107
- Number of benefit recipients: 3,690
- Total assets: $2.11 million
- Amount of monthly annuity payroll: $923,411

The North Dakota Teachers' Fund for Retirement (TFFR) provides the pension system for all public school teachers in the State of North Dakota. TFFR is administered by a five-person Board of Trustees that includes the State Treasurer, the Superintendent of Public Instruction, and three TFFR members appointed by the Governor. The Trustees serve alternating three-year terms (N.D. CENT. CODE § 15-39.1-05). The Board employs an Executive Secretary to manage the daily operations of the Fund (N.D. CENT. CODE § 15-39.1-06). TFFR enlists the Martin E. Segal Company to conduct an annual actuarial valuation of the Fund's reserves and liabilities and an experience study of the actuarial assumptions every five years. The Department of the State Auditor or its approved accounting firm audits TFFR annually (State Constitution Article 13; N.D. CENT. CODE § 54-10-01).

TFFR is subject to extensive legislative oversight by three committees. The Legislative Audit Committee holds annual public hearings on audits performed on all state agencies, including TFFR. Second, the Legislative Budget Committee holds public hearings during the legislative interim concerning the investment of state monies. Hearings generally have concentrated on investment philosophy, investment results, the measurement of investment performance, and the development of legislation for investment practices. Recent legislation from this Committee has authorized TFFR to make equity investments and to pay investment fees from earnings rather than from appropriations. It has also required the State Investment Board (SIB) to establish written investment goals and objectives for each fund managed. Finally, the Legislative Committee on Public Retirement has oversight responsibilities for all legislation as well as for the review of the annual actuarial valuations. The Committee must issue an actuarial cost report on any legislation that might affect TFFR, before either house of the State Legislature may act on it (N.D. CENT. CODE § 54-35-02.3-02.4). Public hearings are held on all matters before the Committee.

TFFR publishes an annual report every October 1 that includes both the annual audit and the actuary's valuation (N.D. CENT. CODE § 15-39.1-22). The report is submitted to the annual meeting of the TFFR membership, as well as to the Governor (N.D. CENT. CODE § 15-39.1-22). Copies are otherwise available upon request.

TFFR assets are invested by the five-member North Dakota State Investment Board (N.D. CENT. CODE § 15-39.1-26).[1] The SIB appoints an Investment Director who is "experienced in the field of investments" (N.D. CENT. CODE § 21-10-02). The Director may act only "in the best interests of the state" (N.D. CENT. CODE § 21-10-05). The SIB presently enlists the money management services of the Bank of North Dakota (fixed income) and Robert & Sullivan, Boston (equity). SIB's investments must accord with those permitted by state code (N.D. CENT. CODE § 21-10-07).[2] Permissible investments include: United States securities; bonds, notes, and debentures; insured and guaranteed loans and mortgage investments; certificates of deposit, building and loan association certificates; and short-term commercial and finance company paper (N.D. CENT. CODE § 26-10-07). At least 80 percent of the investments must be in fixed income securities (50 percent of which must be government issued) or cash; 30 percent may be in equity investments.[3] Callan Associates, Inc. is retained by the Board of Trustees as an investment consultant and to provide investment performance evaluations.

TFFR provides each member, active and retired, an annual statement of account.[4] TFFR policy provides for appeals from adverse benefit decisions made by the Board of Trustees. Active members receive a summary plan description (SPD) in the form of a Member Handbook that is updated on a regular basis to reflect legislative changes in the plan. TFFR also conducts an extensive outreach program, providing members with newsletters, personal account information, and an active program of seminars and counseling.

The Board of Trustees is required by law to conduct open meetings (N.D. CENT. CODE § 40-04-19; N.D. Const. Amend. Art. 92) and maintain its records open to

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[1] The SIB consists of the Governor, the State Treasurer, the State Land Commissioner (appointed by the University and School Land Board), the Chairman of the Workmen's Compensation Bureau (appointed by the Governor), and the State Insurance Commissioner (N.D. CENT. CODE § 21-10-01). Legislation is currently being considered which would place the TFFR Executive Secretary and two investment professionals on the SIB. The professionals would be state residents and appointed by the other SIB members.

[2] However, investments need not be limited to those specified therein, and the SIB may contract with insurance companies, trust banks, or other financial institutions to hold and invest monies provided that the total amount of all monies so placed does not exceed 20 percent of the total TFFR assets (N.D. CENT. CODE § 15-39.1-26).

[3] The current asset mix is 12% equity, 10% cash and 78% fixed income. Policies regarding equity investments were adopted by the SIB on November 18, 1983 prior to the establishment of the equity account. Further investment policies have been developed by the Board of Trustees and are under consideration by the SIB. All fund policies are available to the public upon request.

[4] The annual statements to active members include: name, address, social security number, designated beneficiary, years of credit in fund, value of account as of July 1, listing of the last 10 years of covered employment including salaries, retirement benefit at age 65 or Rule of 90 based on credit and final average salary on the previous July 1 (calculated only on member statements after age 55), and various messages explaining the statement and member rights. Statements to retired members contain: name, address, social security number, designated beneficiary, years of credit earned, current monthly benefit, amount received during the calendar year, total benefits received to date, and total cost of the member's benefit.

the public (N.D. CENT. CODE § 44-04-18). North Dakota punishes as theft any attempt to defraud TFFR by knowingly falsifying or permitting to be falsified any record of the Fund (N.D. CENT. CODE § 15-39.1-29). Violating the conflict of interest provision for SIB is a misdemeanor punishable by a $1,000 fine and/or up to one year in jail.[5] The entire administrative staff of TFFR is bonded under a $6.5 million aggregate security bond by the North Dakota Bonding Fund, State Insurance Department (N.D. CENT. CODE 26-23). Trustees and their staff are also covered by an errors and omissions policy in the amount of $1 million per person.

[5] No member, officer, agent, or employee of the State Investment Board may accept any unauthorized gift, commission, or compensation for services performed or profit in any manner from transactions on behalf of the TFFR Fund (N.D. CENT. CODE § 21-10-09).

# STATE TEACHERS' RETIREMENT SYSTEM OF OHIO (STRSO)

Basic Facts:

- Number of active members and beneficiaries: 226,000
- Number of annuitants: 58,521
- Total assets: $8.99 billion
- Amount of monthly annuity payroll: $41.7 million

The State Teachers' Retirement System of Ohio (STRSO) is a statewide, consolidated retirement plan for public school teachers. STRSO is governed by a nine-member board composed of five teachers who are members of the system and one retired teacher; the Attorney General, the State Auditor and the State Superintendent of Public Instruction serve as ex officio members (OHIO REV. CODE ANN. § 3307.05). The System is audited annually by the Auditor of the State of Ohio; it retains the George B. Buck Company to conduct an annual actuarial valuation. STRSO is under the purview of the Ohio Retirement Study Commission which continuously monitors the cost and financing of public pensions. Study Commission members include three state representatives, three senators, and five ex-officio members who are the directors of Ohio's retirement systems. The Ohio legislature takes an active role in pension matters and in 1981 enacted legislation broadening the investment authority of the state's retirement systems.

STRSO publishes a summary plan description (SPD); major plan modifications are mailed to participants annually. STRSO also publishes an annual Investment Report (including investment policy)[1] and an Annual Summary of Benefits. Both reports are distributed to all employers that participate in the system (who make them available to employees), state legislators, organizations of retired teachers, and others.

Ohio law makes the SPD, the Investment Report and the Annual Summary of Benefits available to the public on request; it also makes *all* of the records (OHIO REV. CODE ANN. § 149.43) as well as the meetings of the board open to public inspection (OHIO REV. CODE ANN. § 121.22), except for information pertaining to individual members and information pertaining to individual investment decisions (OHIO REV. CODE ANN. § 3307.21). Ohio has a staff of 10 field counselors who travel throughout the state on a continuous basis, giving briefings and responding to member inquiries. During the 1983-84 fiscal year, over 10,410 active and retired members attended 132 meetings in 30 counties throughout Ohio.

STRSO also sponsors annual retirement and benefit conferences in the Akron, Cleveland, Toledo, Cincinnati, and Columbus metropolitan areas. The Columbus headquarters of STRSO alone witnessed over 3,000 personal consultations last year. STRSO also publishes newsletters and provides slide and taped presentations directed to both active and retired teachers. It issues employer bulletins whenever appropriate. The System further strives to assist retiring members through a retirement planning seminar held six times each year, and by furnishing a retirement planning workbook. Each member of the STRSO has the right, under law, to an annual statement of the amount credited to his individual account, upon written request. STRSO issues such a statement annually.[2] Participants have the right to an administrative appeal in cases of adverse benefits decisions by the System (OHIO REV. CODE ANN. § 3307.42).

STRSO employs 12 professional investment staff and, in addition, retains the private sector professional investment advice of Thorndike, Doran, Paine & Lewis of Boston (equity and bond portfolio consultants) and the Karsten Companies of Los Angeles (real estate consultants). The System enlists SEI Funds Evaluation Services to assess investment performance. The Board adopts rules for the administration of the plan. The rules must go through a joint committee of the legislature and be filed with the Legislative Service Commission before taking effect.

The Ohio Code includes a range of provisions intended to protect fund assets. Members of the retirement board must be bonded for acts of fraud or dishonesty in the amount of $1 million (the system also carries fiduciary insurance and directors and officers coverage). In making investment decisions, board members are governed by the prudent expert standard. The Code also lists categories of permissible investments, specifying limits for a number of the categories[3] (OHIO REV. CODE ANN. § 3307.15). Insider transactions are prohibited,[4] unless the terms and conditions of the transactions are those that would be negotiated if the transactions were at arm's length. The STRSO board is authorized to consider "investments that enhance the general welfare of the state and its citizens" but only if those investments offer "quality return and safety comparable to other investments currently available to the

[1] In 1984, Ohio's Investment Report was rated as meeting the highest disclosure standards.

[2] These statements are very comprehensive and include the value of the member's account, earned service credit, purchased service credit, and free service credit (*e.g.*, military credit), as well as an estimate of retirement and disability benefits.

[3] Permissible investments include: U.S. government bonds (corporate rated A or higher); bonds of the State of Ohio and its subdivisions; mortgages (Capeharts, conventional and pass-through securities); Canadian government obligations (not to exceed 15 percent); real estate (not to exceed 25 percent); equities (no more than 35 percent); and venture capital (up to five percent). STRSO publishes a comprehensive statement of investment policy, which is available to the public upon request.

[4] Prohibited transactions and co-fiduciary liability are spelled out in Section 3307.14 (C) and (D) of the Ohio Revised Code. Section 3307.15 of the Code specifies that fiduciaries must discharge their responsibilities with respect to STRSO funds "solely in the interest of the participants and beneficiaries." Finally, the STRSO board has adopted a statement of Investment Objectives and Policy that prohibits fund staff from acting or personally investing in any way that creates a conflict of interest.

board" (*id.*). The plan administrators interpret this to prohibit below market investments or loans, even if such loans would benefit the state.

Breach of fiduciary duty is punishable by fine and/or imprisonment under Ohio law (OHIO REV. CODE ANN. §§ 102.03, 102.04, 102.10, 2921.42). In addition, under the recently enacted "bad boy" statute, a public employee convicted of theft in office is required to make proper restitution. Both the employee's contribution refunds and benefits may be garnished for this purpose.

The Ohio Retirement Study Commission has concluded that STRSO meets or exceeds the reporting, disclosure, and fiduciary standards of recently proposed federal legislation.

# TEACHERS' RETIREMENT SYSTEM OF OKLAHOMA (TRSO)

Basic Facts:

- Number of active members: 60,000
- Number of annuitants: 19,000
- Total assets: $1.1 billion
- Amount of monthly annuity payroll: $10.5 million

The Teachers' Retirement System of Oklahoma (TRSO) is a constitutionally created agency of the State of Oklahoma administered by a nine-person Board of Trustees (OKLA. STAT. tit. 70, § 17-106). Membership in OTRS is mandatory for all classified employees (teachers, administrators, etc.) of the public education system of Oklahoma (OKLA. STAT. tit. 70, § 17-103(a)), and optional for unclassified employees (secretaries, cooks, etc.) (OKLA. STAT. tit. 70, § 17-103(2)).

TRSO's Board of Trustees consists of two publicly elected, ex-officio members — the State Superintendent of Public Instruction and the Treasurer (OKLA. STAT. tit. 70, § 17-106(a), (b)) — and seven members appointed by the Governor and approved by the Senate. The seven non-elected members are: a stockbroker, an insurance industry representative specializing in mortgage investments, an investment counselor active in the trust division of a banking institution,[1] a representative of an Oklahoma public institute of higher education, a state public school administrator, an active classroom teacher, and a retired teacher.[2] Oversight of TRSO is provided in the legislature by the Senate Committee on the Judiciary and Retirement and by the House Committee on Retirement Laws. Over the past five years, the legislature has acted to strengthen TRSO by means of several statutory measures, including the reduction from 30 to 20 years of the System's unfunded accrued liability amortization period.

State law mandates that the State Auditor and Inspector audit the funds, accounts and assets of the Teachers' Retirement System annually (OKLA. STAT. tit. 70, § 17-112). TRSO is also required to obtain an annual valuation report, as well as re-evaluations and updates of that report throughout the year (OKLA. STAT. tit. 70, § 17-106(14), (16)). Cummins Inc. of Tulsa performs these functions and also furnishes both TRSO and the State Legislature reports on the cost and other impacts of proposed legislative changes in the retirement laws, as well as evaluations of future membership growth rates, retirement and death rates, and other trends. All actuarial valuations, including the annual report, are available to the public at no charge.

By state law, TRSO publishes a comprehensive annual report listing the fiscal transactions of the System for the preceding school year, the amount of accumulated cash and securities, the last balance sheet describing the financial condition of the System including an actuarial valuation of assets and liabilities, and a detailed accounting of administrative expenses (OKLA. STAT. tit. 70, § 17-106(10)). The full report is available to members of the public, and a summary annual report is distributed to all TRSO members.

The TRSO publishes a summary plan description (SPD) annually in the form of a rules and procedures booklet. Copies of the booklet are available, at no charge, to all TRSO members and to the general public. Modifications in the plan are communicated to members as they are enacted. TRSO also conducts an active public education program that includes a newsletter distributed to all active and retired members four times per school year, a series of pamphlets dealing with various aspects of the retirement system that are distributed widely, and pre-retirement conferences and briefings conducted throughout the state. All TRSO members, by law, receive annual written statements of their benefit status (OKLA. STAT. tit. 70, § 17-107).[3] Any affected person may appeal a denial of benefits or other Board action before the Board of Trustees pursuant to the state's Administrative Procedures Act (OKLA. STAT. tit. 75, § 301-326).

Additional information regarding TRSO's operations and performance is available to all members and to the general public upon request under Oklahoma's Freedom of Information Act (OKLA. STAT. tit. 51, § 51-24). The state's Open Meetings Act guarantees access to the monthly TRSO Board of Trustees meetings (OKLA. STAT. tit. 51, § 25-304). By law, TRSO provides advance public notification of all Board meetings through the Oklahoma Secretary of State's office (OKLA. STAT. tit. 51, § 25-311).

TRSO's Board of Trustees has full investment responsibility (OKLA. STAT. tit. 70, § 17-107); the Board relies on both in-house and outside investment assistance. TRSO's current investment counselors, who were chosen in an open, public bidding process, are the Bank of Oklahoma (Tulsa), Liberty National Bank & Trust Company (Oklahoma City), and Tom Johnson Investment Management, Inc. (Oklahoma City). The System retains SEI Funds Evaluation Services of Atlanta, Georgia to monitor and assess portfolio performance. The Oklahoma Code specifically approves certain investments and imposes certain restrictions on investment options (OKLA. STAT. tit. 70, § 17-107(B)). In general, the criteria applied to the selection of securities include: good management, products or services; vital growing industries strongly financed and conservatively capitalized; good geographical locations; and demonstrated satisfactory records of earnings and dividends. Short-term securities approved under this policy are: United States

[1] These three slots are filled for three-year terms.

[2] These four slots are filled for four-year terms (OKLA. STAT. tit. 70, § 17-106(c)).

[3] Information contained in the statement includes: the member's account balance at fiscal year end showing monthly contributions by both member and employer, account balance at previous fiscal year end, total creditable service, designated beneficiary, and supplementary material including a summary of the System's portfolio and a summary plan description (SPD) (*id.*).

obligations and repurchase agreements; insured certificates of deposit and savings accounts; and prime quality commercial paper. Long-term investments include: United States securities; common and preferred stocks; corporate bonds, notes, or debentures; insured certificates of deposit and savings accounts; insured investments in savings and loan associations; and home office facilities of the TRSO (OKLA. STAT. tit. 70, § 17-107). The TRSO Board has adopted a formalized investment policy, which it makes publicly available upon request.

In making and managing its investments, the TRSO must adhere to the prudent person rule, that is, it must exercise the judgment and care that prudent persons would use in similar circumstances in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the safety of the investment (OKLA. STAT. tit. 70, § 17-107(a)). The State Code requires that the Treasurer of the TRSO be bonded in the sum of $50,000 and the Executive Secretary for $25,000. The Trustees may require any other Board members or employees to give bond in amounts deemed appropriate (OKLA. STAT. tit. 70, § 17-111). Any person who knowingly falsifies or permits to be falsified any TRSO record in an attempt to defraud the System is guilty of a felony (OKLA. STAT. tit. 70, § 17-110).

By law, the State of Oklahoma guarantees that "in the event a plan of the retirement system is terminated or partially terminated, the rights of all participants or, in the event of partial termination, the rights of all affected participants, whether retired or otherwise, shall become fully vested" (OKLA. STAT. tit. 70, § 17-102.1). TRSO has minimal problems with funding, because retirement benefits are funded out of the state tax on natural gas (OKLA. STAT. tit. 68, § 1001-1004).

# OREGON PUBLIC EMPLOYEES' RETIREMENT SYSTEM (OPERS)

Basic Facts:

- Number of active members: 110,000
- Number of annuitants: 44,000
- Total assets: $4.5 billion
- Amount of monthly annuity payroll: $14.9 million

The Oregon Public Employees' Retirement System (OPERS) is a statewide retirement agency that covers state, school and local public employees. It is administered by a five-member Board of Trustees (OR. REV. STAT. § 237.251), appointed by the Governor. Three of the members are employees of participating public employers, while two are not public employees (OR. REV. STAT. § 237.255). The daily operations of the system are managed by a director, employed by the Board (OR. REV. STAT. § 237.252, 259). Oversight responsibility for OPERS is assumed primarily by the Retirement, Banking & Insurance Committee.[1]

OPERS is audited annually by the Division of Audits of the Office of the Secretary of State and has been routinely reviewed every two years to coincide with the biennial legislative sessions, by the actuarial firm of Milliman & Robertson, Inc.[2] This actuarial review includes valuations of the current and prospective assets and liabilities of the system, an investigation into the mortality, disability, service and other experience of the covered employees and employers, and a summary of OPERS' actuarial condition (OR. REV. STAT. § 237.285). The Division of Audits also monitors and reports on the performance of the OPERS portfolio.

The Board is required by state law to prepare an annual report of the financial condition of the system for the Legislative Assembly, the plan members, retirees and employers (OR. REV. STAT. § 237.271(6)). The report to employers and members also includes summaries of the investments and earnings of the system, significant administrative or legislative changes in the system and other pertinent information (OR. REV. STAT. § 237.252(3)(f)). Participants in OPERS also receive an annual statement of their benefit status which includes beneficiaries of record, the fixed and variable earnings rate, retirement computation salary, contributions and earnings to date, and other financial and explanatory matter (OR. REV. STAT. § 237.275). Interested persons have the right to an administrative appeal from adverse benefits decisions (OR. REV. STAT. § 237.315).

The Board prepares and furnishes plan members a summary plan description (SPD) of the OPERS and of members' rights and options thereunder. Additional information about the OPERS is presented to members through field office counselors and in the annual handbook, newsletters and pamphlets. Information concerning the OPERS and its operation can also be obtained under the Oregon Inspection of Public Records law (OR. REV. STAT. § 192.420). All meetings of Oregon governmental agencies are also open to the public, with limited exceptions (OR. REV. STAT. § 192.610).

The management and investment of OPERS' funds is the responsibility of the Oregon Investment Council (OIC), a five-member panel which has the duty to determine investment policy and to review investment activity (OR. REV. STAT. § 293.701). The OIC is composed of two persons appointed by the trustees of the OPERS, two persons from the private sector with investment experience, appointed by the Governor, and the State Treasurer who also serves as the principal investment officer.[3]

In managing the OPERS' assets, the OIC and the investment officer are governed by a prudent person standard, but otherwise exercise broad discretion. Under the standard, those responsible for investment decisions must "exercise the judgment and care, under the circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs in regard to the permanent deposition of their funds and not in regard to speculation" (OR. REV. STAT. § 293.726). State law limits the investment of OPERS funds in common stocks to a maximum of 50 percent of its investment funds (*id.*).

The State Treasurer, as the investment officer, is aided by a professional investment staff, by outside investment advisors (22 at present) and by the investment performance measurement firm of Wilshire Associates. The State Treasurer is not permitted to invest in common stock, so these investments are made by the outside investment managers (OR. REV. STAT. §§ 293.736 and 293:741). The Treasurer reports monthly to the OPERS Board of Trustees and the OIC on the investment transactions of the system (OR. REV. STAT. §§ 293.761 and 293:766). In addition, the OIC reports on the investment program to the Governor and to the Legislative Assembly (OR. REV. STAT. § 293.771).

OPERS' trustees and employees are subject to the state code of ethics for public officials, which forbids the use of public position or insider information for personal gain (OR. REV. STAT. § 244.040). The trustees and director of OPERS and the members of the OIC are also required to file annual financial disclosure statements. Violations of any of the ethical standards can, in addition to any other civil or criminal sanctions which may apply, lead to fines of up to $1,000, forfeiture of twice the amount of any improper financial gain and removal from office (OR. REV. STAT. § 244.350).

OPERS' trustees are bonded for fidelity and liability in the amount of $100,000 per position and $5 million aggregate. They are also covered by the Oregon Tort Claims Act which provides coverage up to $50,000 per claimant for property damage and $100,000 for all other claims to a maximum of $300,000.

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[1] Oregon does not provide for a permanent pension commission or standing legislative retirement committee.

[2] Oregon law requires that such actuarial reviews be undertaken once every four years (OR. REV. STAT. § 237.285). The Board must publish and distribute a summary of the report to all participating employers (*id.*).

[3] The Treasurer is bonded for $100,000 minimum to $3 million maximum.

# PENNSYLVANIA PUBLIC SCHOOL EMPLOYEES' RETIREMENT SYSTEM (PPSERS)

Basic Facts:

- Number of active members: 202,602
- Number of annuitants: 82,507
- Total assets: $7.4 billion
- Amount of monthly annuity payroll: $45.2 million

The Pennsylvania Public School Employees' Retirement System (PPSERS) is the retirement system for all teaching and non-teaching personnel of the state's public schools. PPSERS is governed by a 15-member board.[1] It retains Peat, Marwick, Mitchell & Co. as its independent auditor and George B. Buck as its actuary; audits and actuarial valuations are performed annually. The plan is also subject to oversight by the Pennsylvania Public Employee Retirement Study Commission (ERSC), created in 1981, and by the State Insurance Department (24 PA. CONS. STAT. ANN. § 8532 (PURDON)). The ERSC has recently recommended a major legislative reform package.[2] PPSERS does not hire its own investment staff but relies on private sector professional investment managers (14 different companies).

PPSERS publishes a summary plan description (SPD) as well as a compilation of the state laws that define its mandate; it notifies participants on a current basis regarding major modifications to the plan. PPSERS also publishes a Comprehensive Annual Financial Report which is distributed to each member of the legislature (24 PA. CONS. STAT. ANN. § 8502(n) (PURDON)). In addition, the records of the PPSERS board are open to the public, as are its meetings, which are governed by the state's sunshine law (24 PA. CONS. STAT. ANN. § 8502(d), (e) and 65 PA. CONS. STAT. ANN. § 267 (PURDON)). The PPSERS enabling statute requires the plan to furnish annually to each member a statement of his account, which includes total contributions, interest, years of credited service, and maximum single life annuity as of June 30 (24 PA. CONS. STAT. ANN. § 8503 (PURDON)). Members have the right to appeal decisions by the Board of Trustees through its Appeals Committee and through the administrative hearing process (1 PA. CONS. STAT. ANN. Chapters 31, 33, 35 (PURDON)). PPSERS also conducts an active public information program that includes a field staff of eight officers, regular regional retirement seminars and the publication of four newsletters (for active members, employers, retirees and legislators) as well as periodic news releases.

PPSERS is governed by a high fiduciary standard[3] (24 PA. CONS. STAT. ANN. § 8521 (PURDON)). The Pennsylvania code specifies that board members are trustees, serving in a fiduciary relationship to the members of the System (24 PA. CONS. STAT. ANN. § 8521(a) (PURDON)). In regard to investments in corporate stocks, the Code requires that investment decisions be subject to the exercise of that degree of judgment and care under the circumstances then prevailing which persons of prudence, discretion and intelligence who are familiar with such matters exercise in the management of their own affairs, not in regard to speculation but in regard to permanent disposition of the funds, considering the probable income to be derived therefrom as well as the probable safety of their capital (24 PA. CONS. STAT. ANN. § 8521(h) (PURDON)). PPSERS is also restricted by law in regard to the level of investment it can make in any one company (no more than two percent of the book value of the fund's assets, and no more than five percent of the outstanding stocks of that company) (*id.*). PPSERS is permitted to invest a maximum of 10 percent of the book value of its assets in other investments provided they conform with the prudent person standard. The legislature recently authorized the System to participate in limited partnerships and venture capital in amounts not to exceed one percent of book value (1984 Pa. Laws 95). A comprehensive statement of the System's investment policy is available to the public. The Annual Report contains a listing of all investment transactions conducted by the System. In addition to the general requirement that all board records be available to the public, the Code specifies that all instruments and records pertaining to real estate investments must be available for public inspection.

The Board of Trustees employs several professional consultants to manage the PPSERS investment portfolio. These include: Mellon Bank, N.A. (fixed and equity); the Fidelity Bank (mortgages); State Street Research & Management Co., Provident Capital Management, Inc., and MacKay-Shields Financial Corp. (equity); Loomis Sayles & Company, Inc. and Pittsburgh National Bank (fixed income); Jones, Lang, Wooton Realty Advisors (real estate); and Miller, Anderson & Sherrerd (mortgage backed securities). PPSERS retains Evaluation Associates, Inc. as its investment evaluator.

PPSERS members and employees are governed by the state Code of Ethics; board members are bonded to protect against illegal activity. Further, PPSERS prohibits members of the board from profiting either directly or indirectly from the investments or disbursements of the System.

State law does not specifically deal with below-market loans to state and local units of government, but PPSERS officials regard them as prohibited under the fiduciary standards that govern their performance.

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[1] The Board is composed of two senators, two representatives, two gubernatorial appointees, three elected by active professional members of the System, one elected by annuitants, one elected by active non-professional members, and one elected by members of the Pennsylvania public school boards. In addition, the Secretary of Education, the State Treasurer, and the Executive Director of the Pennsylvania School Board Association serve ex officio (24 PA. CONS. STAT. ANN. § 8501 (PURDON)).

[2] The major thrust of this legislation is to protect and improve the performance of municipal retirement systems.

[3] This standard was enacted into law in 1982.

The Commonwealth of Pennsylvania guarantees PPSERS by the following provision:

> Statutory interest charges payable, the maintenance of reserves in the fund, and the payment of all annuities and other benefits granted by the board. . .are hereby made obligations of the Commonwealth.

(24 PA. CONS. STAT. ANN. § 8531 (PURDON)).

# EMPLOYEES' RETIREMENT SYSTEM OF RHODE ISLAND (ERSRI)

Basic Facts:

- Number of active members: 15,748
- Number of annuitants: 7,908
- Total assets: $637 million
- Amount of monthly annuity payroll: $4.5 million

The Employees' Retirement System of Rhode Island (ERSRI) is a mandatory, statewide retirement system administered by the 15-member Retirement Board (R.I. GEN. LAWS § 36-8-2).[1] The composition of the Retirement Board is fixed by statute and includes the General Treasurer, the Director of Administration, the fiscal advisor to the House Finance Committee, the President of the League of Cities and Towns, two active state employees elected by the employees, two active teachers elected by the teachers of the state, one active municipal employee elected by the municipal employees, one retired member of the ERSRI elected by the retired members, the Chairmen of the House and Senate Finance Committees, the Budget Officer, and two public representatives, one of whom must be a C.L.U.[2] competent in the area of pension benefits. The Board appoints an executive director who is responsible for the actual administration of the ERSRI (R.I. GEN. LAWS § 36-8-9).

The ERSRI is audited twice annually, once by the Bureau of Audits and once by the Auditor General of Rhode Island. The reports are given to the Governor and the Legislature and are available upon request to participants. The Martin E. Segal Co. conducts an annual actuarial review of the ERSRI that includes an investigation of the mortality, service and compensation experience of plan members and beneficiaries, and a valuation of the assets and liabilities of the system (R.I. GEN. LAWS § 36-8-13). ERSRI performance is also monitored by the Joint Committee on Pensions and Retirement, a bi-partisan Standing Committee comprised of four senators and five representatives. The Committee also is responsible for all legislation affecting the System.

The Retirement Board is required by state law to prepare an annual report showing the system's fiscal transactions for the preceding year and providing a financial statement that includes financial and actuarial balance sheets, and a detailed income statement (R.I. GEN. LAWS § 36-8-8).

The ERSRI annual report is submitted to the Governor, the General Assembly, superintendents of schools, unions and major newspapers, and is also available to plan members and beneficiaries upon request. A summary of the financial information in the annual report is sent to each plan member and beneficiary along with a summary of any legislation enacted during the preceding year that affected the ERSRI.

In addition to the financial report, the Retirement Board also provides each plan member and beneficiary with an annual statement showing the status of his or her retirement account and with a summary plan description (SPD). Persons seeking additional information about the ERSRI or its administration may review the records of the proceedings of the Retirement Board, which are required by law to be open to inspection, or may make a request for records under the Rhode Island Freedom of Information Act (R.I. GEN. LAWS § 38-2-2). Board meetings are likewise open to the public (R.I. GEN. LAWS § 42-46-2). ERSRI conducts an active public education program. Its staff members travel around the state offering counseling and information regarding retirement options. The fund also publishes newsletters and information brochures that are distributed to all members.

The funds of the ERSRI are invested by the State Investment Commission (SIC), a seven-member body composed of the General Treasurer, the Director of Administration, the Chairmen of the House and Senate Finance Committees, and three persons with training and experience in the fields of investment or finance appointed by the Governor (R.I. GEN. LAWS §§ 35-10-1 and 36-8-15). SIC members are required to act "as would prudent men of discretion and intelligence in such matters with the aim of seeking a reasonable income and preserving their capital" (R.I. GEN. LAWS §§ 35-10-6 and 35-10-11). The SIC has adopted a formal statement of investment policy which, along with its books and records, may be inspected by any interested person.

State law forbids any member or employee of the Retirement Board from having any direct or indirect interest in the gains or profits of any investment made by the Board. They are also prohibited from using such gains or profits for any purpose except to make such current and necessary payments as may be authorized by the Board. The same law forbids any Board member or employee from becoming an endorser, surety or obligor for monies loaned or borrowed from the Board (R.I. GEN. LAWS § 36-8-17). Any misappropriation of ERSRI funds is punishable as embezzlement (R.I. GEN. LAWS § 11-41-3). Board members are bonded under a state blanket bond. Each member of the Retirement Board and the SIC must also submit annual statements with the Conflict of Interest Commission identifying any activities or holdings that may create a conflict.

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[1] Pension Commission Clearinghouse reports that the Rhode Island Retirement System's benefit level remains among the highest of any state (1983 Report).

[2] Certified Life Underwriter.

# SOUTH CAROLINA RETIREMENT SYSTEM (SCRS)

Basic Facts:

- Number of active members: 150,000
- Number of annuitants: 33,000
- Total assets: $3.8 billion
- Amount of monthly annuity payroll: $14 million

The South Carolina Retirement System (SCRS) is a statewide retirement system for teachers and public employees.[1] It is administered by the State Budget and Control Board which is a five-member board consisting of the Governor, the State Treasurer, the Comptroller General and the Chairmen of the Senate Finance Committee and the House Ways and Means Committee (S.C. CODE §§ 9-1-21 and 1-11-10). The Division of Retirement Administration, acting under the supervision of the Board, is responsible for discharging the Board's duties with regard to the SCRS (S.C. CODE § 1-11-20).

SCRS is subject to legislative oversight by the Joint Continuing Committee on Retirement which was created under 1966 S.C. Acts 1019, § 6. The Committee has six members, three from the House and three from the Senate, and includes the Chairman of the House Ways and Means Committee and the highest ranking Senator. It also has an eight-member Advisory Board which represents employees from all public sectors (1976 S.C. Acts 796). The Joint Committee reviews and makes recommendations regarding proposed pension legislation; it also initiates legislative recommendations on its own. Over the last eight years, the legislature has enacted legislation to fund actuarially SCRS's annual cost-of-living program (four percent compounding annually). Moreover, a constitutional amendment was passed requiring public pension funds instituting new benefits to fund them actuarially, prohibiting state operated systems from diverting assets to purposes other than paying benefits, and mandating the legislature to appropriate annually normal and accrued liability costs as determined by the Board (Art. 10, ¶ 16).

The SCRS is audited annually by the State Auditor and is periodically audited by independent outside auditors. The SCRS is reviewed annually for actuarial soundness by George B. Buck, Consulting Actuaries, Inc. At least once every five years, the actuary conducts an assessment of the mortality, service and compensation experience of the members and beneficiaries of the system (S.C. CODE §§ 9-1-250 and 9-1-260).

The SCRS Board publishes an annual report showing the fiscal transactions of the system during the preceding year, the accumulations of cash and securities and a balance sheet that indicates the financial condition of the SCRS (S.C. CODE § 9-1-300). Copies of this report are available to any citizen of the state and are sent to the governor and the legislature. Members receive a synopsis of the report through a newsletter.

In addition to publishing an annual report, SCRS publishes a summary plan description (SPD) and a booklet containing the laws governing the retirement system. Each plan member is also sent a statement of his or her retirement account annually and as requested. The statement includes member funds on deposit plus interest, years of service credit, designated beneficiary, pertinent information about the system, and a monthly benefit estimate if the member is within five years of retirement eligibility.

SCRS provides additional information about the system through various brochures, a semi-annual newsletter (which includes a financial statement) and an active field service program whereby individual plan members and beneficiaries can obtain specific answers to questions about the SCRS. Special counseling programs are conducted for those members within 10 years of retirement in order to assure that they understand their rights under the system and have the opportunity to plan for retirement. The counselors who participate in these programs are full-time employees of the system. Members are informed of their right to appeal a denial of benefits at the time of the denial (S.C. CODE §§ 1-23-380 through 1-23-390).

The records of SCRS Board proceedings are open to the public by law (S.C. CODE § 9-1-300). Additional information may be secured by making specific requests to the Board. SCRS records are also accessible under the Freedom of Information Act (S.C. CODE §§ 3 and 6). All Board meetings are open to the public under South Carolina's government in the sunshine law (S.C. CODE § 30-3-20).

South Carolina law makes the Board the trustee of the funds of the SCRS, although the State Treasurer maintains actual custody of the funds (S.C. CODE § 9-1-1310). The SCRS maintains a five-person professional investment staff and also retains professional investment advice from the private sector (Jamieson, Eaton & Wood, Inc.), in order to assist the Board in formulating and executing investment decisions. SCRS also has formulated a detailed investment policy which is publicly available upon request.

The types of investments that the SCRS Board may make are strictly limited by statute (S.C. CODE § 11-9-660). The authorized investments are:

> (1) Obligations of the United States or obligations fully guaranteed both as to principal and interest by the United States;
>
> (2) Obligations of the Federal intermediate credit banks, Federal home loan banks, Federal National Mortgage Association, banks for cooperatives and Federal land banks and any notes, bonds, debentures, or other similar obligations, consolidated or otherwise, issued by farm credit institutions pursuant to authorities contained in the Farm Credit Act of 1971 (Public Law 92-181);
>
> (3) Obligations of the State;

[1] SCRS covers over 95 percent of the state's employees. The remainder are enrolled in eight local systems which are required by the State Constitution to fund actuarially any benefit increases (Art. 10, ¶ 16).

(4) General obligations of other states of the United States, but not of the municipal corporations or subdivisions thereof;

(5) General obligations of any of the counties, political subdivisions or municipal corporations of the State;

(6) Revenue bonds of any county, political subdivision, municipal corporation or authority of the State, if the statute pursuant to which such revenue bonds are issued shall declare them to be legal investments;

(7) Obligations issued or unconditionally guaranteed by the International Bank for Reconstruction and Development and the Asian Development Bank;

(8) Obligations of any corporation within the United States if such obligations bear either of the two highest ratings of at least two nationally recognized rating services;

(9) Obligations of any corporation incorporated in the State if such obligations bear either of the three highest ratings of at least two nationally recognized rating services; and

(10) The shares of Federal savings and loan associations and State-chartered building or savings and loan associations in which deposits are guaranteed by the Federal Savings and Loan Insurance Corporation, not to exceed the amount covered by insurance (S.C. CODE § 11-9-660).

A transactional summary is included and performance of the SCRS investment portfolio is analyzed in the annual report.

As the trustee of the SCRS' funds, the Board is required to exercise the judgment and care under the circumstances then prevailing, which men of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital (S.C. CODE § 21-11-10).

Board members and employees of the Board are not permitted to have any direct interest in the gains or profits from any investments made by the Board and must use such gains and profits only to make current and necessary payments as may be authorized by the Board. Board members and employees are further prohibited from being endorsers, sureties or obligors for money loaned to or borrowed from the Board (S.C. CODE § 9-1-1340). The trustees and employees of SCRS are bonded under a blanket bond. All public officials and employees are further covered by the state ethics law which makes it a misdemeanor for any such official or employee to use his office for personal gain (S.C. CODE § 8-13-10). State law also makes it a misdemeanor for any person to falsify, or to permit the falsification of, any records of the system in an attempt to defraud the SCRS (S.C. CODE § 9-1-40).

# SOUTH DAKOTA RETIREMENT SYSTEM (SDRS)

Basic Facts:

- Number of active members: 27,525
- Number of benefit recipients: 7,724
- Total assets: $529 million
- Amount of monthly annuity payroll: $1.68 million

The South Dakota Retirement System (SDRS) provides a consolidated retirement program for six previously discrete benefit plans. These are: the South Dakota Teachers' Retirement System, the Supreme and Circuit Court Judicial Retirement System, the District County Court and Municipal Court Judges' Retirement Program, the South Dakota Municipal Retirement System, the South Dakota Public Employees' Retirement System, and the State Cement Plant Retirement Program[1] (S.D. CODIFIED LAWS ANN. § 3-12-46).

In the legislature, oversight of SDRS is provided by the Retirement Laws Committee, a joint committee composed of five senators and five representatives appointed by the President of the Senate and the Speaker of the House, respectively. The members serve two-year terms, and no more than three from either house may be from the same political party (S.D. CODIFIED LAWS ANN. §§ 2-6-8 through 2-6-12). SDRS is governed by a 17-member Board of Trustees. The Governor appoints two trustees, and a representative of the investment council serves as an ex-officio non-voting member of the Board. The various employer/employee groups elect all the others (S.D. CODIFIED LAWS ANN. §§ 3-12-48 and 3-12-49).[2] Trustees serve staggered four-year terms, except the investment council representative who serves for one year (S.D. CODIFIED LAWS ANN. § 3-12-49). The day-to-day management of the System is handled by an Administrator whom the Board appoints to a four-year term. The Administrator must be "qualified by training and experience" (S.D. CODIFIED LAWS ANN. § 3-12-55).

SDRS is audited biennially by the accounting firm of Touche Ross & Company. The audit sets forth financial information including the amount of accumulated cash and securities of the System, and the latest actuarial balance sheet (S.D. CODIFIED LAWS ANN. § 3-12-59). An actuarial valuation of SDRS's assets and liabilities together with a determination of the necessary contribution level is performed by A. S. Hansen, Inc. the same year as the audit (S.D. CODIFIED LAWS ANN. § 3-12-120).[3] For the last reporting period, the valuation was presented on both an "on-going" and a "termination" basis. The latter approach gives the traditional "snapshot" effect, while the former reflects the System in perpetuity. In addition, SDRS contracts with SEI Funds Evaluation Services to prepare an investment performance report at least once every four years (S.D. CODIFIED LAWS ANN. § 3-12-1189).[4] In the event the investment return on the common stock or bond portfolio is below average, the Investment Council must review investments and make a report to the Governor and the legislature on the investment performance results and any changes necessary to improve investment return (S.D. CODIFIED LAWS ANN. § 3-12-119).

SDRS publishes a biennial financial report which is distributed to the Board of Trustees, the Auditor General, and the Retirement Laws Committee. The public may obtain copies upon request.

The System furnishes a summary plan description (SPD) to new employees through their payroll agents. The SPD is updated when significant changes are made, and a copy is mailed to each member; members are notified of minor changes by letter. SDRS provides each member with an annual statement of account that includes the following: current earned benefits projected to age 62 and 65 (level salary), credited service contributions and interest credited to the member's account, and current primary beneficiary.

SDRS also conducts an active field service program; representatives of SDRS meet with individuals and groups throughout the state to answer questions about the System and to explain benefits and retirement options. South Dakota law requires that meetings of the Board be open to the public (S.D. CODIFIED LAWS ANN. § 1-25-1 and § 1-25-2) and that all records of the Board be open to public inspection (S.D. CODIFIED LAWS ANN. § 3-12-59).

The South Dakota Administrative Procedures Act (S.D. CODIFIED LAWS ANN. § 1-26-1) gives SDRS members the right to appeal a denial of benefits or other administrative decisions. Members who have been denied a benefit are notified of the procedure and given a time limit for appealing any adverse decision (S.D. CODIFIED LAWS ANN. § 3-12-57).

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[1] SDRS members include: teachers; state employees; justices, judges, and law trained magistrates; policemen and firemen; general municipality and county employees; classified school district employees; the board of regents; and law enforcement officers (S.D. CODIFIED LAWS ANN. § 3-12-62).

[2] The composition of Board membership is: two state employees; two teachers; a participating municipality member; a participating county member; a classified employee; a law enforcement officer; a justice, judge, or law trained magistrate; a head of a principal department or bureau (appointed by the Governor); an individual (appointed by the Governor); a county commissioner; a school district board member; an elected municipal official; a retiree; a faculty or administrative employee of the board of regents. The non-voting ex-officio member represents the state investment council (S.D. CODIFIED LAWS ANN. § 3-12-48).

[3] The approved actuary must have at least 15 years of service to major public employee funds, or be a fellow of the Society of Actuaries (S.D. CODIFIED LAWS ANN. § 3-12-47(37)).

[4] This report includes the investments for the total portfolio and each major investment category thereof; a comparison of the investment return on portfolio common stocks to market indices and to the results achieved by other institutional investors of pension funds; and an appraisal of the success of the management of the actively traded bond portfolio, including a comparison of the return on portfolio bonds to bond indices and a quantitative estimate of the aggregate gains or losses arising out of the portfolio transactions, both current exchanges and those that have to be worked out over time by a series of trades (S.D. CODIFIED LAWS ANN. § 3-12-118).

The authority and responsibility for investing the pooled assets of SDRS are vested in the State Investment Council (SIC)[5] (S.D. CODIFIED LAWS ANN. § 3-12-117) whose members are qualified by training and experience in the field of investment or finance (S.D. CODIFIED LAWS ANN. § 4-5-14). Investment decisions are governed by S.D. CODIFIED LAWS ANN. § 4-5-27, which provides that investments "shall be made with the exercise of that degree of judgment and care, under circumstances then prevailing, which men of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived."[6] Presently, 88 percent of the SDRS portfolio is managed in-house by the SIC. The remainder is invested by outside managers selected by the SIC. These currently include: Dreman, Embry, Inc.; Frank Russell Investment Management; Bear Sterns; Smith-Vasiliou Ltd. Partnership; Wachovia Real Estate Corp.; and Security Capitol Real Estate Corp.

The SIC is required to formulate extensive investment policy regulations pertaining to both the nature and scope of investments to guide the Investment Officer and Investment Managers (S.D. CODIFIED LAWS ANN. § 4-5-28). The Investment Officer submits a monthly report to the SIC which includes "a detailed summary of investment, reinvestment, purchase, sale, and exchange transactions, setting forth. . .the investments bought, sold, and exchanged, the dates thereof, the prices paid and obtained, the names of the brokers involved, and a statement of the funds or accounts [involved]." The investment reports are open to the public (S.D. CODIFIED LAWS ANN. § 4-5-32). The SIC currently allocates funds equally between fixed income and equity investments. Citicorp is the SDRS investment custodian.

The making of a profit, directly or indirectly, by the State Treasurer from the unauthorized use of state funds is a felony. The Treasurer is liable on his official bond for all profits realized from any unlawful activity (S.D. CODIFIED LAWS ANN. § 7-5-1). During his tenure, no member of the Investment Council or his firm may engage in the sale of marketable or public securities to the state. Nor may any member benefit directly or indirectly from any transaction made by the Investment Officer, or hold any political position (S.D. CODIFIED LAWS ANN. § 7-5-14).

The Investment Officer, Deputy Investment Officer, and SDRS Administrator are bonded for $900,000 each; the State Treasurer and Deputy Treasurer are bonded individually for $500,000. All SDRS employees are covered up to $100,000. (S.D. CODIFIED LAWS ANN. § 3-5-5.1 and § 4-5-21).

South Dakota law provides that if the SDRS is terminated, or if contributions are discontinued, the rights of all members to benefits which have accrued as of the date of termination or discontinuation of contributions shall vest (S.D. CODIFIED LAWS ANN. § 3-12-72.2).

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[5] The SIC consists of seven voting members, five of whom are appointed by the Executive Board of the Legislative Research Council to five-year terms. No more than three members may hold public office simultaneously with Council membership; nor may over four members belong to the same political party. A representative of SDRS (currently the Administrator) and the State Treasurer are ex-officio members. The remaining members are appointed from South Dakota's business community for their financial expertise. The term of the SDRS representative is one year. The Legislative Research Council is a legislative entity composed of six senators, seven representatives, the Speaker of the House, and the President Pro Tempore of the Senate (S.D. CODIFIED LAWS ANN. § 4-5-13).

[6] The "legal list" of investments contained in S.D. CODIFIED LAWS ANN. § 4-5-26 is not applicable to SDRS (S.D. CODIFIED LAWS ANN. § 3-12-117). "Social investments" are permitted to the SIC provided they are competitive with the market in terms of yield, risk and liquidity.

# TENNESSEE CONSOLIDATED RETIREMENT SYSTEM (TCRS)

Basic Facts:

- Number of active members: 137,563
- Number of annuitants: 44,413
- Total assets: $3.7 billion
- Amount of monthly annuity payroll: $15.2 million

The Tennessee Consolidated Retirement System (TCRS)[1] is a statewide retirement program.[2] TCRS is administered by a 16-member Board of Trustees composed of the State Treasurer, the Director of the Division of Retirement, the Commissioner of Finance and Administration, the Comptroller of the Treasury, the Executive Secretary of the Supreme Court, the Commissioner of Personnel, the Secretary of State, the Chairman and Vice Chairman of the Council on Pensions and Retirement, three teachers, two state employees and two members of the system appointed by the Tennessee County Services Association and the Tennessee Municipal League (TENN. CODE ANN. § 8-34-302).

TCRS' assets and liabilities are reviewed for actuarial soundness every two years by Bryan, Pendleton, Swats & McAllister, actuaries. An actuarial investigation of mortality, service and compensation experience of the members and beneficiaries of the system is conducted at least once every four years (TENN. CODE ANN. §§ 8-34-506 and 8-34-503). TCRS is audited annually by the State Comptroller. The Board of Trustees may also ask for an audit every four years by an independent auditor (TENN. CODE ANN. § 8-34-317). The actuarial reports and audits are submitted to the Board of Trustees and the Council on Pensions and Retirement; they are available to the public upon request.

The Council on Pensions and Retirement is a 19-member legislative oversight committee[3] (TENN. CODE ANN. § 3-9-101). Among the Council's duties are:

> "[to] develop, establish and recommend pension and retirement standards and a coherent [and progressive] state policy on pensions and retirement . . . ; [to survey continuously] pension and retirement developments in other governments and in industry and business and periodically [to] reappraise the state's policy and standards in view of such development and changing economic and social conditions; [to maintain currently] a critical analysis of the federal social security program and [to] evaluate its objectives and accomplishments; [to appraise periodically] pension and retirement provisions in force in Tennessee . . . along with those in other states and [to] recommend changes as considered necessary or advisable in the state's laws; [to] review proposals from other sources for changes in the state's laws and [to] transmit recommendations concerning them to the General Assembly and the Governor; [to] submit suggested legislation or amendments to the General Assembly and Governor for the purpose of carrying out its recommendations; [and to] adopt Committee amendments as appropriate in regard to any proposed change in the state's law" (TENN. CODE ANN. § 3-9-102).

In addition, no legislative committee may act on a bill proposing the establishment of a new pension or retirement system or a change in an existing system until the Council has reported its recommendations to the legislature and has assessed the actuarial cost of the bill[4] (TENN. CODE ANN. § 3-9-103).

The TCRS Board is required by law to publish an annual report of the System's fiscal transactions, and the System's receipts, expenditures and accumulations of cash and securities. The report must include a balance sheet showing the financial condition of the System based on the actuarial valuation of its assets and liabilities (TENN. CODE ANN. § 8-34-316). Copies of the annual report are filed with the General Assembly and are sent to each TCRS member.

TCRS provides each member and beneficiary of the System with a summary plan description (SPD) of the TCRS plan and the benefits it provides, which is updated every two years. TCRS plan members also receive

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[1] TCRS was formed in 1972 upon consolidation of seven separate retirement plans: Tennessee Teachers' Retirement System, Tennessee State Retirement System, Tennessee Judges' Retirement System, Retirement System for County Paid Judges of Tennessee, Attorneys' General Retirement System of Tennessee, Public Service Commissioners' Retirement System, and Tennessee Retirement System for County Officials.

[2] Local government employees are covered under TCRS if their local governing body has authorized participation. Local government retirement plans are controlled by the Tennessee Public Pension Review Act (TENN. CODE ANN. § 3-9-201).

[3] The Council is composed of the following members, ex officio: the Speaker of the Senate; the Speaker of the House of Representatives; the Chairman, Vice Chairman, and Secretary of the Senate Committee on Finance, Ways and Means; the Chairman, Vice Chairman and Secretary of the House Committee on Finance, Ways and Means: the Comptroller of the Treasury; the Commissioner of Finance and Administration; the Commissioner of the State Department of Personnel; the State Treasurer; the Director of Retirement; three members of the Senate Finance, Ways and Means Committee (appointed by the Chairman of that Committee and approved by the Speaker of the Senate); and three members of the House Finance, Ways and Means Committee (appointed by the Chairman of that Committee and approved by the Speaker of the House of Representatives) (TENN. CODE ANN. § 3-9-101).

[4] Any bill creating financial liability on TCRS must contain the manner of funding for such liabilities. Accrued liability costs are to be actuarially determined on a period not exceeding 20 years (TENN. CODE ANN. § 3-9-103).

a semi-annual newsletter that reports on changes enacted in the System, provides up-to-date benefit information, and offers a forum for raising questions about the System. Each plan member also receives an annual statement of account showing his accumulated contributions and interest. Participants have the right to appeal adverse benefits decisions to the TCRS Director, then to the Board of Trustees, and, ultimately, to the civil courts.

The TCRS staff conducts an extensive outreach program that includes periodic seminars on TCRS operations. Persons seeking more information about the TCRS can review the records of the proceedings of the Board of Trustees, which are open to public inspection (TENN. CODE ANN. § 8-34-315), or request specific information under the state open records law (TENN. CODE ANN. § 10-78-104). Board meetings are also open to the public (TENN. CODE ANN. § 8-4402).

The TCRS Board is the plan trustee, although the System's funds are placed in the custody of the State Treasurer (TENN. CODE ANN. §§ 8-37-102 and 8-37-103). The Board of Trustees has the authority to invest the System's assets, subject to the limitations imposed on investments by domestic life insurance companies, provided that the total sum invested in preferred and common stocks cannot exceed 50 percent of total assets (TENN. CODE ANN. §§ 8-36-104 and 8-36-105). The System publishes a written statement of its investment policies, which is available to the public. Plan trustees are held to a prudent man standard in regard to investment decisions (TENN. CODE ANN. § 35-3-117(b)).

The TCRS Board is guided in its investment decisions by a five-member Investment Advisory Council (TENN. CODE ANN. §§ 8-37-108 and 8-37-109).[5] Council members, who are nominated by the State Treasurer, must have at least five years of experience as portfolio managers, economists, or investment advisors. The Council's meetings, which are held at least quarterly, are open to the public. The Board of Trustees obtains additional investment advice from other professional investment advisors in the private sector.[6] The performance of the TCRS portfolio is monitored by the Board, the Council on Pensions and Retirement, and the Fiscal Review Committee of the legislature.

The state statute regulating the investments of domestic life insurance companies (TENN. CODE ANN. § 56-3-303) permits investments in: federal, state and local governmental obligations (provided the issuer is not in default), high quality debt instruments of institutions created under the laws of the United States or any state thereof (provided the issuer is not in default), preferred stock in any solvent institution created under the laws of the United States or any of the states (provided that the investment in the preferred stock of a single issuer cannot exceed two percent of the assets of the TCRS and the total investment in preferred stock cannot exceed 15 percent of the total assets), common stock in any solvent institution organized under the laws of the United States or any of the states (provided that the investment in the common stock of a single issuer does not exceed one percent of the assets of the System), and loans secured by mortgages on unimproved real estate located in the United States, not exceeding 75 percent of the value of the land (TENN. CODE ANN. § 56-3-303). The TCRS is not permitted to make loans to state and local governmental entities at less than market rates. A detailed report of all investment transactions is compiled with the Board of Trustees and is made available to the public upon request.

TCRS trustees and employees are prohibited from having any personal interest in TCRS investments and are not allowed to use plan resources except to make current and necessary payments as authorized by the Board of Trustees. They are further prohibited from being endorsers, sureties or obligors for money loaned to or borrowed from TCRS (TENN. CODE ANN. § 8-37-107). Any person who falsifies, or permits the falsification of, any TCRS records in an attempt to defraud the System is guilty of a misdemeanor (TENN. CODE ANN. § 8-34-205). Unauthorizesd personal use of public money by state officials or others charged with safekeeping, collecting or disbursing public funds is punishable as a felony (in all cases involving state offices) or as larceny (TENN. CODE ANN. §§ 39-5-408 and 39-5-409). State officials who serve on the Board of Trustees are bonded under a state blanket bond.

[5] Current members of the Investment Advisory Council include: a Senior Vice President, the Chief Financial Officer and the Treasurer of First Tennessee National Corporation; the Executive Secretary and Treasurer of the Southern Baptist Foundation; a Senior Vice President of Valley Fidelity Bank and Trust; the President of Commerce Capital Management Corporation; and a Vice President of the Pension Investments — Provident Companies.

[6] Once the TCRS Board, after consulting with the Investment Advisory Council, has determined the plan's investment policy, implementation of the policy is delegated to the State Treasurer (TENN. CODE ANN. § 8-37-110).

# TEACHER RETIREMENT SYSTEM OF TEXAS (TRST)

Basic Facts:

- Number of active members: 407,649
- Number of annuitants: 89,241
- Total assets: $10 billion
- Amount of monthly annuity payroll: $47 million

The Teacher Retirement System of Texas (TRST) is an agency of the state, which administers retirement benefits for all components of the public school system of Texas. TRST is audited annually by the State Auditor and receives an annual actuarial valuation from the Wyatt Company. In addition, the System is subject to oversight by the State Pension Review Board (PRB),[1] which reviews the plan's actuarial reports and other aspects of its performance, provides impact statements on all pension-related bills and, where appropriate, recommends corrective legislation (TEX. REV. CIV. STAT. ANN. tit. 110B, § 11.202 (VERNON)). The House of Representatives also maintains a standing Committee on Retirement and Aging.

TRST's nine-member Board of Trustees[2] employs a staff of 13 professional investment specialists and, in addition, hires outside advisors.

TRST publishes and distributes to new members a summary plan description (SPD) that is available to the public. Major plan modifications are mailed to participants on a regular basis; the latest one was in September, 1983.

TRST also publishes a detailed Annual Report (TEX. REV. CIV. STAT. ANN. tit. 110B, § 35.108 (VERNON)), as well as a compilation of the state constitutional provisions, laws and rules that govern its operation. All of the TRST records are available to the public under an Open Records law, as are the records of the State Pension Review Board pertaining to TRST[3] (TEX. REV. CIV. STAT. ANN. art. 6252-17a and TEX. REV. CIV. STAT. ANN. tit. 110B, § 35.107 (VERNON)). Both boards are also required to hold open meetings (TEX. REV. CIV. STAT. ANN. art. 6252-17 (VERNON)). In addition, TRST conducts an extensive education/information program that includes speakers who travel throughout the state to discuss the System and to answer questions. Counselors are available at the home office in Austin at any time and throughout Texas by appointment. TRST also publishes a monthly newsletter, a number of pamphlets explaining the benefits available and a compilation of the laws and regulations that govern the System. In Texas, each member is mailed an annual statement of account which includes deposits, credited service, the basic formula for retirement, estimates of retirement for eligible members, and the designated beneficiary's age and sex (TEX. REV. CIV. STAT. ANN. tit. 110B, § 35.501 (VERNON)). Members have the right to appeal any adverse benefit decisions through designated administrative channels, the Board of Trustees and, ultimately, to the state district courts (TEX. REV. CIV. STAT. ANN. art. 6252-13a (VERNON)).

TRST is created by the state constitution, which specifies that "the assets of the system are held in trust for the benefit of the members and may not be diverted" (Constitution of Texas, Art. 16, § 67(a)). The constitution also requires the fund to operate on a sound actuarial basis and specifies the investment standard governing the fund. Its trustees must exercise "the judgment and care under the circumstances then prevailing that persons of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital" (*id.*). And state law subjects TRST's Board to general fiduciary standards by specifying that the Board "is the trustee of all assets of the retirement system" (TEX. REV. CIV. STAT. ANN. tit. 110B, § 35.103 (VERNON)). In addition to defining a general fiduciary standard, the state code also includes provisions that direct the Board in regard to the way in which it manages the fund (TEX. REV. CIV. STAT. ANN. tit. 110B, § 35.301 (VERNON)). The Texas Code does not specify a list of permissible investments.[4]

TRST employs Merrill Lynch to monitor the performance of the System's portfolio; Thorndike, Doran, Paine, and Lewis of Boston reviews investment performance in light of published indices. All investment reports are distributed to the Board, advisory committees, System consultants and staff, and to the public on request. Moreover, the Board of Trustees has established and selected an Investment Advisory Committee composed of prominent investment specialists throughout the state. The Committee meets quarterly to discuss investments and to recommend policy changes to the Board. TRST publishes a statement of its investment policy, which is evaluated regularly and changed as needed. It is also available to the public.

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[1] The PRB consists of nine members including three persons from the fields of security investment, pension administration, or pension law (not members or retirees), one person experienced with actuarial science, one person experienced in governmental finance, one active member, one retired member, one state senator, and one state representative (TEX. REV. CIV. STAT. ANN. tit. 110B, §§ 11.103 and 11.104 (VERNON)).

[2] The governor appoints all but two members of the Board from the following sources: two from a slate of three members currently employed by the schools; one from a slate of three retirees; one from a slate of three members from higher education and three others (with no statutory restrictions) (TEX. REV. CIV. STAT. ANN.. tit. 110B, § 35.002 (VERNON)). The remaining two are appointed by the state Board of Education (TEX. REV. CIV. STAT. ANN. tit. 110B, § 35.003 (VERNON)).

[3] Protected from disclosure are individual member files, information which would give unfair advantage to competitors or bidders, and information concerning litigation which the Board determines to withhold from public inspection.

[4] The Texas Constitution does, however, prohibit the TRST from taking an equity ownership position in real estate investments.

TRST is prohibited from "self-dealing" and its Trustees may not "have a direct or indirect interest in the gains from investments made with the System's assets and may not receive any compensation for service other than designated salary and authorized expenses" (TEX. REV. CIV. STAT. ANN. tit. 110B, § 35.210 (VERNON)). Employees and trustees can be sued in their official capacities and individually in civil court for losses due to a breach of fiduciary duties. Criminal prosecutions can be instituted under the general theft statutes, as well as under conflict of interest, bribery, and ethics violations provisions. Texas has recently enacted an ethics in government law that applies to all state officials, including the TRST's trustees (TEX. REV. CIV. STAT. ANN. art. 6252-9b (VERNON)). All System personnel are bonded at $1 million (TEX. REV. CIV. STAT. ANN. tit. 110B, § 35.209 (VERNON)).

Because of the constitutional mandates established for TRST, the fund cannot make below-market loans or other investments in state or local governmental entities, regardless of the social desirability of such investments.

# UTAH STATE RETIREMENT BOARD (USRB)

Basic Facts:

- Number of active members: 67,554
- Number of annuitants: 14,659
- Total assets: $1.9 billion
- Amount of monthly annuity payroll: $4.4 million

The Utah State Retirement Board (USRB) is an independent public trust (UTAH CODE ANN. § 49-9-2) which administers a consolidated retirement program for all of Utah's public employees. USRB is governed by a nine-member board that includes representatives of the investment community, of public (non-school) and school employees and of employing units; the State Treasurer also sits on the board (UTAH CODE ANN. § 49-9-3). USRB retains Peat, Marwick, Mitchell & Co. as its independent auditor and Coate, Herfurth & England, Inc. as its actuary. Audits and actuarial valuations are completed annually and are delivered to the legislature. In addition, any member of the legislature can request the State Legislative Auditor General to do performance and organizational audits of the System.

USRB's performance is reviewed on a regular basis by the Retirement Subcommittee of the State and Local Affairs Committee (UTAH CODE ANN. § 36-12-3). The state legislature maintains an Interim Subcommittee to deal strictly with retirement issues, and has enacted several pieces of legislation concerning USRB over the past eight years. During the legislative session, budget oversight is provided by the Joint Appropriations Committee on General Government and Capital Facilities.

USRB publishes a summary plan description (SPD) that is updated continuously (most recent update — 1983), with notice to participants. Members may obtain copies of the SPD upon request.

USRB also publishes an annual financial report that gives a detailed, item-by-item list of board investments. A monthly record of specific transactions with the System's assets is contained in the Retirement Board's minutes. All of the basic plan documents are available to the public under Utah law. The state has laws requiring that all meetings and records of the board be open to the public (UTAH CODE ANN. §§ 52-4-2 and 78-26-1), and all reports filed by the System with the legislature and the Executive are available to the public. All records, which are not subject to the Right to Privacy Act or are not directly related to investments in the negotiation stage, are likewise open to the public.

In addition to these protections, USRB conducts a public information program that includes employer briefings, employee consultations via a traveling field staff, and newsletters and other publications — all designed to keep participants and beneficiaries informed regarding their benefits and the performance of the System.[1]

Members receive an annual statement of their benefit status which contains their contribution balance (taxed and taxable) plus accrued interest, accrued service credit, current beneficiaries listed, a projection of benefits if the member were to terminate employment and take retirement at the earliest date possible, and a projection of benefits if the member were to work until qualified for a full retirement. Members may appeal adverse benefit decisions to the Retirement Board. If upon the board's review the member is dissatisfied, the member may file a written request for a hearing within 30 days. A determination by the board must then be made within 90 days. Appeals from board decisions may be taken to the district courts (UTAH CODE ANN. § 49-10-49).

USRB performs its investment functions in accordance with a written investment policy. The board hires its own professional investment staff and, in addition, retains private sector professional investment managers and advisors including Smoot, Miller & Cheney, Capitol Consultants, Value Line Asset Management, Atlanta/Sosnoff, F.I.A. Associates, and Wasatch Advisors. USRB also enlists SEI Funds Evaluation Services to assess investment performance. In making investments, the USRB is governed by the ERISA prudent expert rule (UTAH CODE ANN. § 49-9-12). The board is given wide discretion in choice of investments; however, investments are to be made so as to assure "the greatest return commensurate with sound financing adequately safeguarded" (UTAH CODE ANN. § 49-9-11).[2] The board is specifically authorized to invest in bonds, securities, real estate mortgages, savings deposits or certificates of deposit and similar types of instruments[3] (*id.*). The board is also permitted to invest in unrated securities where "such unrated securities are found by the board to be of a quality equal to securities rated within the three highest classifications as required of rated securities" (*id.*).

The state code prohibits self-dealing in its public employees' Code of Ethics (UTAH CODE ANN. § 67-16-1). This act has rigorous terms, including a provision that

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[1] USRB's many publications include: *Viewpoint* (a semi-annual publication to all members); *Cycles* (a quarterly for all retired members); *The Inside Story* (a monthly publication to all employing units and administrators); *Highlights* (three brochures outlining the benefits available to the State, Firemen's and Public Safety Retirement Systems); *Guidelines* (an indepth review of benefits available in the state retirement system for active members nearing retirement); *Post-Retirement Employment* (outlines rules and statutes governing employment after retirement as it relates to the continuation of full benefits); *Semi-Annual and Annual Stock Fund Report* (an unaudited report of the 457 Salary Deferral Program Stock Fund investment option); *Retirement: A Time for Fulfillment* (a retirement counseling guide and planner for active members near retirement age); and *Annual Financial Report* (a comprehensive financial, statistical, and actuarial data compilation for USRB plans). USRB is currently drafting an Employee Handbook. The board also sends to members news releases to emphasize programs, schedules, and changes related to the functions of the State Retirement Office.

[2] A brief statement of investment policy is contained in the annual report, and is available to the public upon request.

[3] Investments in real property may not exceed 15 percent of the book value of the investment portfolio.

voids transactions where there has been a conflict of interest.[4] Criminal penalties for breach of fiduciary duty are set forth in UTAH CODE ANN. § 76-6-513; penalties for defrauding the System (a misdemeanor) are set forth in § 49-10-51. USRB members are covered by a fiduciary bond policy that provides $15 million in coverage for legal fees and $15 million aggregate coverage. A fidelity bond also provides coverage for up to $1 million for all System trustees and employees.

[4] USRB members are designated by state law as trustees, dealing as fiduciaries with trust funds. As such, they come under the state trust laws.

# STATE TEACHERS' RETIREMENT SYSTEM OF VERMONT (TRSV)

Basic Facts:

- Number of active members: 8,116
- Number of benefit recipients: 2,307
- Total assets: $189 million
- Amount of monthly annuity payroll: $861,357

The TRSV is a statewide retirement plan which covers all teachers, principals, supervisors and superintendents employed in the public school systems of Vermont. TRSV is administered by a six-member Board of Trustees (VT. STAT. ANN. tit. 16, § 1942).[1] The Board does not employ in-house investment staff but relies on outside money managers. These include: Delaware Investment Advisors, Rampart Investment Managers, Inc., Loomis Sayles, and Putnam Investment Advisors. SEI Funds Evaluation Services monitors the performance of the TRSV portfolio.

TRSV is audited annually by the State Auditor of Accounts; an annual actuarial valuation is performed by George B. Buck Consulting Actuaries, Inc. At least once every five years the actuary conducts an actuarial review of the mortality, service and compensation experience of the system (*id.*). The actuarial reports are distributed to the TRSV Board, the Budget and Management Division and the Governor; they are available to members upon request. TRSV is subject to legislative oversight by the Government Operations and the Appropriations Committees of both houses of the Vermont legislature.

TRSV is required by law to publish an annual report showing the fiscal transactions conducted during the year and indicating the financial condition of the system (VT. STAT. ANN. tit. 16, § 1942). Copies of the annual report are distributed to the Governor, the Vermont legislature and state libraries; copies are available to TRSV participants and the public on request. A summary of the financial information, including comparative balance sheets and statements of changes in the fund balance, is provided to all participants.[2]

Participants also receive a summary plan description (SPD) of the TRSV and the benefits available thereunder. The SPD describes the plan and its administration, and summarizes the nature of, and eligibility standards for, plan benefits. The SPD is updated whenever changes in the plan are enacted. Additionally, each participant is sent an annual statement of account summarizing his total benefit package. This statement itemizes in detail each of the benefits to which the participant is entitled. TRSV participants are given a right to appeal any denial of benefits. This right is spelled out in the Retirement Handbook and in a written notice at the time of the denial.

TRSV engages in an active outreach program to keep participants abreast of changes in the plan and retirement issues in general. Through a combination of publications, newsletters and meetings throughout the state, TRSV strives to make each participant aware of his or her rights and of the status of the system.

Meetings of the TRSV Board of Trustees must be open to the public under Vermont's government in the sunshine law (VT. STAT. ANN. tit. 1, § 312). The records of TRSV Board proceedings must also be open to public inspection (VT. STAT. ANN. tit. 16, § 1942). Additional information concerning the TRSV and its activities is available to participants and the public under the Vermont Freedom of Information Act (VT. STAT. ANN. tit. 1, § 317).

Under Vermont law, the Board of Trustees is responsible for the investment of TRSV assets. Such investments are generally subject to the same statutory restrictions that apply to domestic life insurance companies (VT. STAT. ANN. tit. 16, § 1943). The statutorily authorized investments include debt instruments, stocks, loans and income-producing real estate, provided that the investments are "prudent" under the circumstances (VT. STAT. ANN. tit. 8, § 3643). Among the prohibited investments are below-market rate loans to state and local governmental entities. The Board has adopted a formal statement of its investment policy, which is available to the public.

No trustee or employee of the TRSV Board is permitted to have a direct interest in the gains or profits of any investment made by the Board, or to become a surety, endorser, or obligor for monies loaned to or borrowed from the Board (VT. STAT. ANN. tit. 16, § 1943). TRSV Board members are covered by a $500,000 bond which has been provided for all state employees.

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[1] State law designates the members of the Board as including: the Commissioner of Education, the State Treasurer, the Commissioner of Banking and Insurance, two members of the TRSV elected by the members of the system, and one retired TRSV member elected by the directors of the Association of Retired Teachers of Vermont (VT. STAT. ANN. tit. 16, § 1942).

[2] The making of any falsified reports is punishable as a misdemeanor (VT. STAT. ANN. tit. 16, § 1947).

# VIRGINIA SUPPLEMENTAL RETIREMENT SYSTEM (VSRS)

Basic Facts:

- Number of active members: 213,800
- Number of annuitants: 44,309
- Total assets: $3.9 billion
- Amount of monthly annuity payroll: $18.6 million

The Virginia Supplemental Retirement System (VSRS) is administered by a seven-person Board appointed by the Governor (VA. CODE § 51-111.17).[1] In addition to the VSRS, which covers almost all state employees, the Board administers the State Police Officers' Retirement System, the Judicial Retirement System, the State Group Life Insurance Program and the Federal-State Social Security Agreement.[2] The VSRS also administers the Government Employees' Deferred Compensation Plan under the direction of the Deferred Compensation Board. A disability insurance plan is scheduled to be implemented effective October, 1985.

VSRS is audited annually by the State Auditor of Public Accounts and an actuarial valuation is performed every two years by George B. Buck, Consultants. The actuarial report is published and is available to the public. VSRS employs a 12-person investment staff and, in addition, retains 13 to 15 private investment managers and advisors (these include MacKay Shields Financial Management Corp., Putnam Advisors, and Batterymarch). A Retirement System Review Board consisting of seven members appointed by the Governor is responsible for evaluating proposed changes in the System and reporting findings to the General Assembly. Members of the Board must have experience in the fields of pensions, investments, actuarial science or pension law (VA. CODE § 51-111.26:2).

VSRS is required by state law to publish a detailed annual report showing receipts and disbursements and reporting current investments.[3] The full annual report is available to members of the public at no cost; a summary annual report is distributed to all VSRS members. VSRS also publishes a summary plan description (SPD); modifications in the plan are communicated to members as they are enacted. VSRS members are entitled to and are furnished annually a written statement of their benefit status. They also benefit from VSRS' outreach program, which includes the distribution of pamphlets dealing with specific retirement subjects, pre-retirement seminars conducted throughout the state and periodic memoranda regarding plan performance (these are distributed three times a year to active members and once a year to retired members).[4] Additional information regarding VSRS's operations and performance can be obtained via the Virginia Freedom of Information Act (VA. CODE § 2.1-341) and the state law guaranteeing access to VSRS Board meetings (VA. CODE § 15-111.23).

Members are given the right to appeal a denial of benefits under the state Administrative Process Act (VA. CODE, title 9, Chapter 1.1:1). They are informed of this right in writing at the time of denial.

The VSRS, guided by its Investment Advisory Committee,[5] has full investment responsibility, subject to a number of restrictions defined in state law. The System contracts with Rogers, Casey & Barksdale to monitor the performance of the VSRS portfolio. Virginia statutorily approves certain investments, including United States obligations, bonds or notes of corporations formed under the laws of the United States, any state thereof, Canada, or any province thereof (provided the corporation has not defaulted within the preceding seven years), and certain prime quality commercial paper (but such investments cannot exceed 35 percent of the trust funds) (VA. CODE §§ 51-111.24, 51-111.24:1 and 5-111.24:3).

In addition, VSRS, with the approval of the Governor, can invest in certain state-owned office buildings, provided the total of such investments does not exceed $100 million. State law requires an interest rate that is equal to the prevailing market rate (VA. CODE §§ 51-111.24:6 and 111.24:7). In making and managing its investments, the Board must exercise the judgment and care which prudent persons would use in similar circumstances in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the safety of the investment (VA. CODE § 51-111.24:2). Moreover, VSRS has a written investment policy which is available to the public upon request.

State law prohibits investments that constitute a conflict of interest and directs Board members and employees not to profit personally from VSRS investments (VA. CODE § 51-111.25). Board members and employees are also subject to Virginia's Comprehensive Conflict of Interests Act (VA. CODE § 2.1-599), which provides strict standards for the dealings of the officers and the employees of state governmental agencies; violations of the Act may lead to loss of office, forfeiture of any gain, and conviction for a Class I misdemeanor. The Board members and staff are covered by a fiduciary liability bond in the amount of $10 million for liability and $10 million for defense.

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[1] The Board members include: one official with the executive branch of state government, one teacher, one state employee, one employee of a political subdivision participating in the retirement system, and three who are neither teachers nor otherwise employed by government.

[2] This agreement covers state and school board employees and employees of participating political subdivisions.

[3] The VSRS 1982 and 1983 Annual Reports received an award from the Municipal Finance Officers' Association for high performance in regard to disclosure, including the legal and accounting aspects of its financial reporting. These reports are typical of the fund's annual reporting.

[4] As with most of the other states covered in this report, the statutes and regulations governing VSRS are available in the state's public library system.

[5] The Investment Advisory Committee has five members, all of whom are investment experts. Two of the five are Board members.

The vast majority of public employees in Virginia are covered by VSRS, although some five or six localities maintain plans in accordance with the provisions set forth in Chapter 4 of Title 51 of the Code of Virginia. The Code requires that any locality having a population of 5,000 or more must join VSRS or provide a local system which offers a service retirement benefit equal to or exceeding two-thirds of a comparable benefit payable from VSRS (VA. CODE § 51-111.31).

Recent legislation has provided for annual cost of living increases to retirees; established a new benefit structure for members employed after April 1, 1980; allowed for greater diversity of investments; and provided that trust funds shall not be subject to appropriation by the General Assembly.

# WASHINGTON STATE DEPARTMENT OF RETIREMENT SYSTEMS (WDRS)

Basic Facts:

- Number of active members: 166,559
- Number of benefit recipients: 65,840
- Total assets: $5.5 billion
- Amount of monthly annuity payroll: $32.1 million

The Washington State Department of Retirement Systems (WDRS) is responsible for the administration of six statewide retirement plans: Teachers' Retirement System (TRS),[1] Public Employees' Retirement System (PERS), Law Enforcement Officers' and Firefighters' Retirement System (LEOFF), State Patrol Retirement System (WSPRS), Judicial Retirement System (JRS), and Judges' Retirement Fund (JRF) (WASH. REV. CODE §§ 41.32, 41.40, 41.26, 43.43, 2.10 and § 2.12). Each of these systems has its own trust fund and its own schedule of benefits and costs.

WDRS is headed by the Director of Retirement Systems who is appointed by and serves at the pleasure of the Governor (WASH. REV. CODE § 41.50.020).[2] The systems do not have boards of trustees but WDRS maintains an Advisory Committee made up of active and retired members of each of the six systems. This group meets quarterly when the Legislature is not in session and monthly when it is to provide advice to the Director (WASH. REV. CODE § 41.50.032). Oversight responsibility for WDRS lies in the legislature with the Ways and Means Committees of both houses.

WDRS is audited annually by the State Auditor, and annual actuarial valuations of each system and five-year experience studies are made by the State Actuary (WASH. REV. CODE § 41.50.090). An annual report (showing WDRS' fiscal transactions for the preceding year, the System's accumulated cash and securities, and the most recent balance sheet reflecting the financial condition of the System by means of an actuarial valuation of its assets and liabilities) is made to the Governor and the Legislature (WASH. REV. CODE § 41.50.050). These reports are available to members and the public upon request.

Each member of the System is given an annual statement of account to show his individual account status. Members also receive a summary plan description (SPD) which is updated, as necessary, after each legislative session. WDRS conducts an active public information campaign that includes retirement seminars conducted throughout the state each year. These are so located that no member need drive more than 60 miles to attend. All WDRS members are entitled to appeal any administrative or benefit decision to an Administrative Law Judge provided by the Office of Administrative Hearings, after which an appeal can be taken to the court system (WASH. ADMIN. CODE § 415-08). All WDRS affiliated meetings are announced in advance and are open to the public (WASH. REV. CODE § 42.30.020). And its records are available under Washington's Freedom of Information Act (WASH. REV. CODE § 42.17.260).

WDRS' assets are invested by the State Investment Board (SIB) (WASH. REV. CODE § 41.50.080). The SIB has nine voting members: the State Treasurer, the Director of WDRS, the Director of the Department of Labor and Industries; one senator; one representative; one representative each from the PERS, TRS, and LEOFF systems; and one representative of retirees of all systems. The nine voting members select five non-voting advisors from the private sector (WASH. REV. CODE § 43.33A).[3] Investments are governed by the prudent man standard with diversification being the only additional requirement. That standard requires "the exercise of that degree of judgment and care, under circumstances then prevailing, which men of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived" (WASH. REV. CODE § 41.50.085 and § 43.33A.140). The SIB employs Merrill Lynch Capital Markets to monitor and evaluate investment performance.

Investments are made by outside counselors and by in-house staff. Current outside managers include Batterymarch, Columbia Management, Hotchkis & Wiley, Shafer Capital, Torray Clark, and United Capital Management (equity managers), and Prudential, Equitable, Smith Barney, and Pacific Mutual. The System also has several general partners in various venture capital partnerships.[4] The Board has adopted a written set of investment policies,[5] and meets quarterly to make asset allocations (WASH. REV. CODE § 43.84.150). The State Treasurer is the custodian of all monies received for the System (WASH. REV. CODE § 41.32.220, § 41.32.202, § 41.32.203). No officer of WDRS may become an endorser, surety, or obligor for monies of the System (WASH. REV. CODE § 41.32.230). Any person who knowingly falsifies or permits to be falsified any record of the retirement system in an attempt to defraud the

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[1] "Teacher" means any person qualified to teach who is engaged by a public school in an instructional, administrative, or supervisory capacity (WASH. REV. CODE § 41.32.010(29)). TRS membership is mandatory (WASH. REV. CODE § 41.32.240) for state, educational service district, and school district superintendents and their assistants and all employees certified by the superintendent of public instruction. Full-time school doctors are likewise included (WASH. REV. CODE § 41.32.010(29)).

[2] Effective June 30, 1982, the Board of Trustees of each retirement system was abolished in favor of the Director of Retirement Systems (WASH. REV. CODE § 41.50.032).

[3] The advisors include an economist, two brokers dealing in stocks and bonds, and two individuals knowledgeable about real estate and mortgage investments. The advisors seek to provide balanced coverage over the entire investment spectrum.

[4] As of January, 1985, WDRS has committed $127 million to venture capital.

[5] All funds must be sufficiently diversified, and no corporate fixed income issue or common stock holding may exceed three percent of the cost or six percent of the market value of the assets of the fund (WASH. REV. CODE § 43.84.150).

System, is guilty of a felony (WASH. REV. CODE § 41.32.670).

The Washington Supreme Court has held that the pension system is contractual in nature and that, consequently, the state is its guarantor.[6]

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[6] *Bakenhus v. Seattle*, 48 Wash.2d 695, 296 P.2d 536 (1956).

# WEST VIRGINIA STATE TEACHERS' RETIREMENT SYSTEM (STRS)

Basic Facts:

- Number of active members: 48,653
- Number of benefit recipients: 18,037
- Total assets: $250 million
- Amount of monthly annuity payroll: $7.2 million

The West Virginia State Teachers' Retirement System (STRS) was established in 1941 (W. VA. CODE § 18-7A-1).[1] Participation is mandatory for all employees of the public school system, the State Department of Education, and the staff of the Teachers' Retirement Board (W. VA. CODE § 18-7A-13). Employees of the Board of Regents, both teachers and non-teachers, have the option to participate in STRS; however, once the option is exercised, future participation is mandatory (W. VA. CODE § 18-7A-14a).

The state maintains a Joint Commission on Pensions and Retirement composed of three senators, three representatives, and three gubernatorial appointees. The Commission reviews all pension-related legislation and makes recommendations regarding STRS to the full Assembly.

The general administration and management of the System are vested in the Teachers' Retirement Board (W. VA. CODE § 18-7A-4). The Board is comprised of 10 members: the Governor, who is the ex officio Chairman; the state Superintendent of Schools; the Commissioner of Finance and Administration; four members of the retirement system; and a retired school employee. The System's membership elects its four representatives to six-year terms, while the retired member is elected by retirants to a two-year office.[2]

STRS employs an Executive Secretary to manage daily operations. By law, the Executive Secretary is covered by "adequate bond with satisfactory corporate surety (W. VA. CODE § 18-7A-10).[3] Among the duties of the Executive Secretary is the maintenance of individual accounts with each STRS member. Members may appeal any decision of the Executive Secretary to the Retirement Board (W. VA. CODE § 18-7A-11).

State law requires a competent actuary (currently John S. Agatstun of Pittsburgh, Pennsylvania) to evaluate the present and prospective assets and liabilities of STRS funds every five years (W. VA. CODE § 18-7A-12), although such studies historically have been conducted every two years. In addition, the Board publishes an annual report showing the condition of STRS and certifying the amount of accumulated cash and securities of STRS (W. VA. CODE § 18-7A-12). The report is distributed to the Governor and members of the legislature, and may be obtained by plan members. STRS also furnishes its members and participating employers with a summary plan description (SPD), which is updated with each legislative change and is available to the public upon request.

Since 1978, West Virginia has operated a consolidated pension fund, incorporating all public retirement plans and workmen's compensation. Management of the Fund rests with the West Virginia Board of Investments (WVBI), comprised of the Governor, State Auditor, and State Treasurer (W. VA. CODE § 12-6-3).[4] Each member must give a fidelity bond from a qualified surety company in a penalty amount of $1 million. In addition, the Board purchases a blanket bond for the faithful performance of its duties in the amount of $5 million (W. VA. CODE § 12-6-4).[5]

The WVBI manages $1.3 billion in assets, with the assistance of Pittsburgh National Bank's risk control group. Fund fiduciaries are guided by a prudent man standard and must act "with the exercise of that degree of judgment and care, under circumstances then prevailing, which men of experience, prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived" (W. VA. CODE § 12-6-12). State law defines permissible fund investments (W. VA. CODE § 12-6-8(f)). These include obligations of the United States; evidences of indebtedness issued by various associations and agencies; evidences of indebtedness secured by first lien mortgages or deeds of trust; obligations of West Virginia; undivided interests in trusts; and bonds, notes, debentures, and commercial paper of any United States corporation (W. VA. CODE § 12-6-9).[6] The WVBI does not invest in equities.

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[1] "Teacher" means the following persons, if regularly employed for at least half-time service: instructors; principals; public school librarians; superintendents of schools and assistant county superintendents; county school attendance directors; the Executive Secretary of the Retirement Board; research, extension, administrative or library staffs of public schools; the State Superintendent of Schools and those employees performing educational services; employees of the state Board of Education, Board of Regents, Department of Education, and Teachers' Retirement Board (if formerly employed as public school teachers); classroom teachers, principals, and educational administrators under supervision of the Department of Corrections or the Department of Health and Human Services; and state Board of Finance members (if formerly employed as public school teachers) (W. VA. CODE § 18-7A-3).

[2] All Board members must subscribe to a constitutional oath of office (W. VA. CODE § 18-7A-5, W. VA. CONST. Art. IV Section 5). The Board meets at least four times during the school year (W. VA. CODE § 18-7A-9) and is legally advised by the State Attorney General (W. VA. CODE § 18-7A-8).

[3] Board members, excepting the ex officio members, are not under bond.

[4] The Governor acts as Chairman and the State Treasurer is the Executive Secretary of the SBI and custodian of its assets (W. VA. CODE § 12-6-4). The Treasurer must furnish annually a sworn statement of the amount of funds in his custody (W. VA. CODE § 18-7A-197).

[5] The Board may likewise require a fidelity bond for any person having access to any assets held by the Board (W. VA. CODE § 12-6-4).

[6] W. VA. CODE § 12-6-10 restricts the investments of the consolidated fund to 75 percent in corporate debt, 20 percent in corporate debt maturing within one year of issuance, and three percent in a single private corporation or association.

The Board is required to establish formal investment policy guidelines and must review all investments against these guidelines every three months. The Board must prepare, at least annually, a report of its operations and of the performance of the various funds it administers (W. VA. CODE § 12-6-14).[7] The Legislative Auditor conducts a continuous post-audit of the System's investment transactions, and submits a copy of his findings to each member of the state legislature (W. VA. CODE § 12-6-15). All System reports, like the WVBI report, are publicly available.

STRS conducts a public information program that includes seminars for prospective retirees as well as publications and brochures. Since 1977, the System provided each member an annual computerized statement showing vested values and service credits. West Virginia's sunshine provision requires that all meetings of the Teachers' Retirement Board and the SBI (W. VA. CODE § 1, § 6-9A-2), as well as their records (W. VA. CODE § 29B-1-2), be open to the public.

An STRS trustee may have no direct or indirect interest in the System's investments, nor may he act as surety, endorser or obligor on System loans (W. VA. CODE § 5-10-39). Any member or employee of the Retirement Board who misuses STRS funds is guilty of a misdemeanor punishable by a $1,000 fine and/or one year imprisonment (W. VA. CODE § 18-7A-21). Anyone who falsifies or permits to be falsified any retirement system record in an attempt to defraud the System is also guilty of a misdemeanor subject to the above penalties (W. VA. CODE § 18-7A-29).

[7] Copies are furnished to the Chief Financial Officer of each fund, the President of the Senate, Speaker of the House, Legislative Auditor, and (upon request) to any legislative committee, banking institution on federal savings and loan, and any member of the news media. The report is kept available for public inspection (W. VA. CODE § 12-6-14).

# WISCONSIN RETIREMENT SYSTEM (WRS)

Basic Facts:

- Number of active members: 183,000
- Number of benefit recipients: 60,300
- Total assets: $8.1 billion
- Amount of monthly annuity payroll: $20.7 million

The Wisconsin Retirement System (WRS) is a consolidated system covering all state and local government employees.[1] WRS is administered by the Public Employee Trust Funds Board (Trust Funds Board) in conjunction with two advisory boards, the Teachers' Retirement Board and the Wisconsin Retirement Board. Responsibility for WRS investment decisions rests with the State of Wisconsin Investment Board (WIS. STAT. § 25.14).[2] The Investment Board has a staff of 40 and handles all investments in-house. WRS performance is subject to vigorous legislative oversight and to constant review by both the Joint Survey Committee on Retirement Systems (JSCRS) and the Retirement Research Committee (RRC) of the state legislature (WIS. STAT. § 13.51).[3]

The Trust Funds Board is composed of 11 members, four of whom must also be members of the Teachers' Retirement Board, another four must be members of the Wisconsin Retirement Board. One member is selected from the general public and must have at least five years of experience in actuarial analysis, administration of an employee benefit plan or significant administrative responsibility with a major insurer. The remaining two positions are occupied by the Governor or his designee on the Group Insurance Board and the Secretary of Employment Relations or his designee (WIS. STAT. § 15.16).

The investment of WRS assets is the responsibility of the seven member Investment Board.[4] The Investment Board must report monthly to WRS' trustees regarding its investment transactions. Formal assessment of investment performance is conducted by CDA Investment Technologies, Inc. The Investment Board is required to file a detailed report by December 31st of each year with the Trust Funds Board showing the value of the assets in each of the retirement trusts (WIS. STAT. § 25.17(14)). The report also details the Investment Board's investment policy; it is available to the public. The WRS is audited by the Legislative Audit Bureau at least once every two years (WIS. STAT. § 25.17(51)). A detailed audit report — that includes recommendations for improved performance and a schedule of investments — must be filed with the Governor, the Legislative Reference Bureau, the Department of Administration, and the Department of Employee Trust Funds within 30 days following the completion of the audit. The report is available to the public upon request (WIS. STAT. § 13.94(dd)(i)).

An actuarial review of the reserves and liabilities of the WRS is undertaken each year by the enrolled actuarial firm of Gabriel, Roeder, Smith & Co. A general actuarial examination of the experience of the WRS is undertaken at least once every three years (WIS. STAT. § 40.03(5)(b), (d)).

In addition to the above reports, on or before October 15 of each odd-numbered year, the Department of Employee Trust Funds is required to prepare and submit to the Governor and the Legislature a full report on the operation and performance of each of the state retirement funds during the preceding two years. This report includes an assessment of the condition of the WRS and also sets forth the Department's goals and objectives for the funds (WIS. STAT. § 15.04(1)(d)).

WRS participants are entitled to receive a copy of the biennial report or a summary thereof and are sent an annual statement of their individual accounts with appropriate explanatory material. In addition, each participant receives a summary plan description, and may obtain 45 other handbooks, newsletters and notices that describe participant rights and benefits and that explain changes in the law and the System. WRS's public outreach and member education programs are extensive; the Board employs full-time field staff who brief employee and employer groups on retirement options and the operations of WRS. In addition, WRS counselors meet on a one-on-one basis with employees who are about to retire, as well as with retirees, to assist them with retirement choices.

Any person desiring additional information concerning the administration of the WRS or the investment of its funds can seek fund records under the state freedom of information law (WIS. STAT § 19.35), which generally

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[1] The City and County of Milwaukee maintain separate retirement systems which are, however, subject to the same legislative oversight as WRS.

[2] Local governments may also request the Investment Board to invest their retirement assets.

[3] All retirement bills introduced into the Wisconsin Legislature are referred to the JSCRS which holds public hearings and analyzes the public policy, actuarial and financial effects of each proposal. The JSCRS members (10) also serve on the 18-member RRC. The RRC, which was created in 1959, conducts ongoing studies of the state and local retirement systems and develops and recommends changes in those systems to the legislature. The JSCRS and the RRC are served jointly by a three-person professional staff. Current JSCRS members include four senators, a taxpayer representative, the Assistant Attorney General (appointed by the Attorney General), an actuary appointed by the Insurance Commissioner, and the Secretary of the Department of Employee Trust Funds. In addition to these members, the following serve on the RRC: another three taxpayer representatives, an employer representative, a public employee representative, two teacher representatives (one from Milwaukee), and the Secretary of the Department of Employment Relations or his designee.

[4] Four of these members are appointed by the Governor and must have at least 10 years of investment experience. The other three positions are held by the Secretary of the Department of Administration (or his designee) and two participants in the WRS, one a teacher appointed by the Teachers' Retirement Board and the other a non-teacher appointed by the Wisconsin Retirement Board (WIS. STAT. § 15.76).

The Board's Executive Director is responsible for day-to-day management decisions. He also serves on the State's Depository Selection Board.

provides public access to all governmental records. Wisconsin has also mandated that, except in limited circumstances, all meetings of governmental bodies, including the Trust Funds and Investment Boards, must be open to the public (WIS. STAT. § 19.83).

WRS members have a statutory right to appeal a denial of benefits (WIS. STAT. § 40.03(1)(j)) and are so informed in writing.

In regard to fiduciary standards, the Wisconsin Budget Act of 1983 adopted the ERISA prudent expert standard. Investments are judged in terms of the overall portfolio instead of by individual categories of investments. Under other provisions of the Wisconsin Code, the Investment Board is required to consider only the interests of the participants (WIS. STAT. § 40.01(2)) and must secure participants' benefits at the lowest possible cost (WIS. STAT. § 40.01). In regard to fixed dividends, the Board has the same investment authority as to insurance companies plus the authority to invest 50% of its assets in other categories.

Wisconsin law provides that two retirement investment funds be maintained, one fixed and the other variable. (After 1980, the variable retirement investment trust fund was closed to new entrants.) The fixed retirement investment trust fund has a diverse portfolio of bonds, common stocks, mortgages and real estate holdings while the variable retirement investment trust fund holds primarily common stocks.

The conduct of Investment Board members is guided by the State Code of Ethics (WIS. STAT. § 19.41). Under this law, Board members, the executive director and the executive assistant must file an annual Statement of Economic Interests and quarterly Transaction Reports with the State Ethics Board. In addition, the Board has adopted a code of ethics for its staff members, which prohibits staff from having a financial interest in any firm that provides services to the Investment Board, prohibits the purchase of common stocks on initial public offerings and requires staff to file with the Board quarterly confidential reports of all personal investment transactions in common stocks and debt instruments.

WRS Trustees and employees are bonded under a general performance bond; chief executive officers are bonded at $40,000. The state indemnifies its employees and trustees against all personal liabilities resulting from actions arising out of their conduct and duties as employees and trustees.

Wisconsin law provides criminal and civil penalties for misconduct in public office (WIS. STAT. § 946.12); these penalties apply to the Board members and staff of both the Trust Fund Board and the Investment Board. Such violations are Class E felonies which carry fines of up to $10,000 and/or imprisonment not to exceed two years.

# WYOMING RETIREMENT SYSTEM (WRS)

Basic Facts:

- Number of active members: 32,566
- Number of annuitants: 6,375
- Total assets: $616 million
- Amount of monthly annuity payroll: $19 million

The Wyoming Retirement System (WRS) is a consolidated system for all of Wyoming's public employees. WRS is administered by an 11-member Board of Trustees.[1] The Governor appoints all members, except the State Treasurer, to six-year terms. No more than six members may belong to the same political party (WYO. STAT. § 9-3-404). The Board employs a Director to manage the daily operations of WRS (WYO. STAT. § 9-3-406).

WRS is audited annually by Deloitte, Haskins & Sells, Inc. The Board also employs the Martin E. Segal Company to evaluate annually the actuarial soundness of the System (WYO. STAT. § 9-3-406(a)). WRS publishes annually a valuation of its assets and liabilities, a statement of receipts and disbursements, and a statement of the accrued liability contribution rate payable by employers. A full actuarial valuation is required at least once every six years, and an experience study is undertaken at least every eight years by statute (WYO. STAT. § 9-3-409). These reports, along with a statement of any proposed benefit changes and their projected costs to the fund, are distributed to the Governor and the Legislature, and are available to the public upon request (WYO. STAT. §§ 9-3-409 and 9-9-101).

The Board publishes a summary plan description (SPD) which describes the basic workings of WRS. The SPD is updated to reflect major changes in the System, which are reported to members as they occur. Moreover, WRS currently is preparing its first annual report.

The WRS Board "may make use of the services of whatever investment board or commission which has been duly designated by legislative action for the purpose of assisting in the selection of investments for public funds of the state" (WYO. STAT. § 9-3-424(d)). The System currently retains Alliance Capital Management Company, Inc., Lehman Management Co., and Northwest Bank, N.A. of Casper as investment advisors. The State Treasurer is the custodian of all WRS assets. Wyoming law permits investments in: obligations of the United States; notes, bonds, railroad equipment trust certificates or debentures of United States corporations; and preferred and common stocks[2] (WYO. STAT. § 9-3-424). All investments are governed by the prudent person standard (WYO. STAT. § 2-3-301). Segal Advisors, Inc. undertakes a semi-annual performance review of the WRS portfolio. WRS has adopted a formal statement of its investment policy, which is available to the public.

WRS conducts an active public information program. The size of the state requires that the System handle most counseling by mail. WRS representatives, however, attend any conference where their presence is requested. Major employers such as the state government, universities and colleges, and larger school districts include presentations by WRS personnel at pre-retirement seminars and new employee orientations.

Any person who falsifies or permits to be falsified any WRS record in an attempt to defraud the Board is guilty of a misdemeanor (WYO. STAT. § 9-3-429). Moreover, WRS trustees are subject to all criminal and civil penalties applicable to Wyoming corporate bodies and their fiduciaries (WYO. STAT. § 9-3-703). The WRS trustees are covered under a state blanket bond.

Members receive an annual statement of account which reflects member contributions for the year and projects benefits to age 60 at the current salary level. Any person aggrieved by a Board ruling is entitled to a hearing before the Board. Decisions of the Board may be appealed to the courts within 30 days (WYO. STAT. § 9-3-410).

The public may attend all Board meetings pursuant to Wyoming's sunshine law (WYO. STAT. § 9-11-102). All WRS records — except for disability files, individual annuity payments, and members' account balances — are open to the public under the State Freedom of Information Act (WYO. STAT. § 9-9-101).

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[1] The Board members are: the State Treasurer; a retirant of WRS; two state employees; two employees of the public school system or the University of Wyoming; and five qualified Wyoming electors, at least one of whom has professional expertise in investments and finance (WYO. STAT. § 9-3-404).

[2] At no time may the book value of corporate stocks exceed 35 percent of the book value of the total investments of WRS (WYO. STAT. § 9-3-424(c)). The System may own no more than one percent of a corporation's common stock, and no more than one percent of WRS's book value may be invested therein (WYO. STAT. § 9-3-424(b)(v)).

# CHICAGO TEACHERS' PENSION FUND (CTPF)

Basic Facts:

- Number of active members: 27,000
- Number of annuitants: 9,500
- Total assets: $1.6 billion
- Amount of monthly annuity payroll: $7.8 million

The Chicago Teachers' Pension Fund (CTPF)[1] was created in 1895 by the Illinois General Assembly. The Fund is administered and controlled by a 10-member Board of Trustees, which consists of three members of the Board of Education, six contributors, and one pensioner (ILL. REV. STAT. ch. 108-1/2 § 17-137).[2] The Board retains an Executive Director with an extensive background in finance and public administration (ILL. REV. STAT. ch. 108-1/2, § 17-143).

CTPF employs Ernst & Whinney as its independent auditor and Sandor Goldstein, F.S.A. as its enrolled actuary. The Board also enlists the counsel of A. A. Weinberg, Actuary Emeritus, for special research and evaluative projects. Statutory audits and actuarial valuations of the Fund's accounts and records are performed annually. All reports are filed with the State Superintendent of Education and the Auditor General (ILL. REV. STAT. ch. 108-1/2, § 17-153) and are availble for public inspection. In addition, a yearly actuarial review of experience is conducted, and CTPF is subject to periodic scrutiny by the Illinois Department of Insurance and by standing committees of the Illinois General Assembly, including the House Personnel and Pensions Committee, the House Appropriations Committee, the Senate Insurance Committee, and the Senate Appropriations Committee. The Legislature further oversees CTPF by means of the Illinois Economic and Fiscal Commission, which performs research for the General Assembly. Since 1946, the Illinois Public Employee Pension Laws Commission also has reported to the Governor and General Assembly regarding public retirement plans.

In recent years, the state legislature has enacted significant changes in the operating authority covering all state public employee pension plans, in order to insure continued stability and access to information. This legislation includes a protective provision that prohibits CTPF from transferring Fund assets or investment authority to "any person or entity for the purpose of consolidating or merging its assets and management with any other pension fund or public investment authority," unless the Board's decision is approved by a majority of both contributors and pensioners (ILL. REV. STAT. ch. 108-1/2, § 17-146). In addition, Senate Bill No. 1147 (now ILL. REV. STAT. ch. 108-1/2, §§ 22-501.2 through 501.14 and §§ 22-503.2 through 22.503.5) amended the Pension Code to specify the requirements for actuarial statements.[3]

CTPF publishes a summary plan description (SPD) that is available to the public. The SPD is updated annually via an appendix to CTPF's annual report to reflect major plan modifications as they occur. SPD items are also included in the annual report itself, which is comprehensive and includes significantly more information than required by any recent federal legislative proposals.

CTPF is required by law to make copies of the SPD, the annual report, trust agreements, contracts and other instruments under which the plan operates, including Board records, available to the public (ILL. REV. STAT. ch. 116, § 43.6). It is also required to conduct open meetings (ILL. REV. STAT. ch. 102, § 41 and § 42). Furthermore, CTPF follows a long-established practice of providing participants and beneficiaries with a detailed annual written statement of individual benefit status which includes accrued contributions (with a breakdown of taxable and non-taxable portions), and a breakdown of contributions toward retirement pension, survivors' pension, and automatic annual increase.[4] Detailed information pertaining to contribution rates and benefits is provided on the reverse of the statement, along with the procedures to follow if the statement does not agree with the contributor's personal records.

CTPF also provides members with individual counseling, conducts informational sessions in schools, conducts pre-retirement seminars, coordinates a network of

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[1] Each Illinois city with a population over 500,000 maintains and administers a public school teachers' pension and retirement fund pursuant to ILL. REV. STAT. ch. 108-1/2, § 17-101. The Fund benefits all members of the teaching force of the city, including principals, assistant principals, the general superintendent of schools, assistant and district superintendents of schools, members of the Board of Examiners, and all other persons whose employment requires a teaching certificate issued by the Board of Examiners, and employees of the Board of Trustees (ILL. REV. STAT. ch. 108-1/2, § 17-106).

[2] Board members are chosen as follows. The Board of Education, in odd-numbered years, appoints two of its members to serve on the Board of Trustees for two years; in even-numbered years, it appoints one member to serve for two years. Teachers elect two members to office for three years, while retaining their teacher status. And pensioners elect one member to a two-year term, who retains pensioner status. All trustees must subscribe to a constitutional oath of office (ILL. REV. STAT. ch. 108-1/2, § 17-138).

[3] Actuarial statements, *inter alia*, must contain: the dates of the plan year and actuarial valuation; the amount of participant and employer contributions; the amount of covered compensation for active participants for the year; the number of active participants, terminated participants eligible for vested benefits or return of contributions, and other participants and beneficiaries included in the valuation; the current value of accumulated assets, the unfunded accrued liability (including the impact of plan amendments, changes in actuarial assumptions, experience deviations, and contributions varying from normal cost plus interest on unfunded accrued liability), the amount of accumulated contributions for active participants, and the actuarial present value of accumulated benefits for vested and non-vested participants; and the actuarial value of assets (ILL. REV. STAT. ch. 108-1/2, § 22-503.2). The statement must also describe the assumptions and methods determining statement values, and disclose the impact of changes in actuarial assumptions and methods as well as plan provisions. Statements are subject to review by the Illinois Public Employees' Pension Laws Commission, which will require a supplementary actuarial statement if it finds the initial statement unsatisfactory (ILL. REV. STAT. ch. 108-1/2, § 22-503.3).

[4] It also contains years of optionally creditable service, years of service validated by contributions, payment required for deficiencies and/or optionally creditable service, date of birth, sex, and date of filing of Designation of Beneficiary form.

volunteer pension representatives in each school, and distributes a newsletter and other regular bulletins to both active and retired members.

The Board manages its assets internally and retains Capital Supervisors, Inc. as independent investment counsel (ILL. REV. STAT. ch. 108-1/2, § 1-109.1(a)). The Board retains Gabriel, Roeder, Smith & Company for third-party performance measurement. CTPF investments must accord with ILL. REV. STAT. ch. 108-1/2, § 1-113.[5] The City Treasurer is the custodian of the Fund for the Board and is liable on his official bond for the proper performance of his duties and conservation of the Fund.[6] Neither he nor any officer having custody of the Fund may retain any interest which accrues on the Fund, but such interest shall inure to the Fund's benefit (ILL. REV. STAT. ch. 108-1/2, § 17-147).

CTPF has adopted the ERISA prudent expert standard which requires "the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character with like aims" (ILL. REV. STAT. ch. 108-1/2, § 1-109(b)). CTPF trustees are required to "use reasonable care to prevent any other trustee from committing a breach of duty" (ILL. REV. STAT. ch. 108-1/2, § 1-109.2(b)(1)). In addition, Illinois law prohibits fiduciary transactions that result in less than adequate compensation for CTPF, that present any conflict of interest, or which could be construed as "acting on behalf of a party whose interests are adverse to #those# of the retirement system" or its constituents (ILL. REV. STAT. ch. 108-1/2, § 1-110).

The trustees and employees of the Fund are bonded under a Comprehensive Blanket Policy covering loss of money, securities and other property which the Fund sustains directly from fraudulent or dishonest acts, to a maximum of $100,000 per occurrence. The duties of the fiduciary are clearly enumerated in Sections 1-109, 1-109.1, and 1-110 of the Pension Code (ILL. REV. STAT. ch. 108-1/2). Sections 1-114 and 1-115 provide for judicial recourse in the event of a breach of fiduciary responsibility, requiring an offender to make good any losses sustained by the system, to restore any profits made through the use of system assets and to be subject to removal.[7]

State laws governing all public plans in Illinois generally prohibit the same insider transactions as are prohibited by ERISA. CTPF may deal with interested parties only if the transaction is for adequate consideration and is conducted at arm's length (ILL. REV. STAT. ch. 108-1/2, § 1-110). Illinois law permits CTPF to acquire employer securities up to 10 percent of plan assets (ILL. REV. STAT. ch. 108-1/2, § 1-111).

The Illinois Constitution makes the State responsible for financing the system of public education, including the teacher retirement system. In addition, the Constitution specifies that: "Membership in any pension or retirement system of the state, any unit of local government or school district, or any agency or instrumentality thereof, shall be an enforceable contractual relationship, the benefits of which shall not be diminished or impaired" (Art. 8, Sec. 5).

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[5] Permissible investments include: obligations of the United States, the Inter-American Development Bank, the International Bank of Reconstruction and Development, the Asian Development Bank, states and political subdivisions, corporations, Canada and its Provinces and cities, and the State of Israel; insured notes secured by mortgages under the National Housing Act; guaranteed loans to veterans; common and preferred stocks and convertible debt securities; savings accounts; trading, purchase or sale of options underlying CTPF securities; general accounts of life insurance companies; mortgage pass-through securities evidenced by interests in owner-occupied residential mortgages; funds managed by banking trusts; and money market instruments (ILL. REV. STAT. ch. 108-1/2, § 1-113).

[6] CTPF indemnifies its employees against civil actions arising out of acts or omissions occurring within the scope of employment, unless conduct is found "intentional, willful or wanton" (ILL. REV. STAT. ch. 108-1/2, § 1-108), in which case employees are personally liable (ILL. REV. STAT. ch. 108-1/2, § 1.109.2) to make good CTPF's losses and to restore any wrongful profits. Fiduciaries are subject to appropriate equitable and remedial relief, including removal from office (ILL. REV. STAT. ch. 108-1/2, § 1-114) in civil actions brought by the Attorney General or by a participant, beneficiary, or fiduciary (ILL. REV. STAT. ch. 108-1/2, § 1-115).

[7] (ILL. REV. STAT. ch. 108-1/2, § 1-114). These statutes, which provide for civil relief in response to an action initiated by the Attorney General or an interested party, do not preclude criminal charges, which may also be brought by the State's Attorney.

# MINNEAPOLIS TEACHERS' RETIREMENT FUND ASSOCIATION (MTRFA)

Basic Facts:

- Number of active members: 3,100
- Number of benefit recipients: 2,300
- Total assets: $195 million
- Amount of monthly annuity payroll: $1.4 million

The Minneapolis Teachers' Retirement Fund Association (MTRFA) was incorporated under Chapter 343 of the Laws of 1909 — now MINN. STAT. § 354A.01. Any teacher in the employ of the Minneapolis Board of Education qualifies for MTRFA membership (Art. of Incorp. IV(1)).

MTRFA is administered by a Board of seven trustees, which consists of six elected members (Art. of Incorp. V(1)(a)) who serve three-year terms (Art. of Incorp. V(1)(b)) and one member appointed by the President of the Board of Education for an indefinite period (Art. of Incorp. V(1)(a)). The Trustees elect from among themselves a President, Vice-President and Secretary, and select a Treasurer who need not be a Trustee (Art. of Incorp. V(1)(d)). Additionally, the Trustees appoint an Executive Secretary to manage the daily operations of the Fund (By-Laws VI). The Board is assisted by an Advisory Investment Committee of seven prominent investment persons, which meets quarterly to implement investment strategy. Both the Treasurer (Art. of Incorp. V(1)(d)) and the Executive Secretary are bonded under a blanket policy at $100 million per loss.

The State Legislative Committee on Pensions and Retirement oversees the activities of MTRFA. MTRFA employs Peat, Marwick, Mitchell & Company as its enrolled actuary to perform an annual actuarial valuation of the fund (Art. of Incorp. V(b)), Main Hurdman, Certified Public Accountants, to audit the Board's records annually (By-Laws V), and First Corporate Securities of Minneapolis to monitor the performance of the MTRFA portfolio. MTRFA includes this data in its annual financial report.

MTRFA may make any investment permitted a trustee under Minnesota law (Art. of Incorp. VI(2)).[1] In addition, any teachers' retirement fund association may invest in Minnesota non-farm real estate, either in an ownership interest or in loans secured by mortgages or deeds of trust (MINN. STAT. § 354A.08). However, MTRFA may have no capital stock. Nor may the amount of indebtedness to which it is subject at any time exceed 20 percent of total fund assets, as determined by the last annual report (Art. of Incorp. XII). The Board of Trustees has adopted a formal statement of its investment policy, which is availble to the public upon request. In managing its investments, MTRFA is guided by the "prudent person" rule.

MTRFA maintains individual records and accounts and, upon written request, furnishes any member a statement of his account including the member's name and address, account number, previous year's balance, deposits, interest, and current balance (Art. of Incorp. V(9)). Members are notified in writing of their right to appeal to the Board any adverse benefits decisions. MTRFA maintains a Contingent Fund to pay the monthly annuity payments of retired members, should normal reserves prove insufficient to pay any member's benefits (Art. of Incorp. IX(14)(H)).

The Association publishes a summary plan description (SPD) which is available to participants, beneficiaries, and the public. The Board regularly updates the SPD and notifies participants of major plan modifications as they occur. MTRFA also conducts an active information/education program including monthly newsletters and an annual meeting of the membership. All meetings and records of the System are open to the public.

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[1] "Any trust company may acquire, use, and improve, and for that purpose mortgage, lease, sell, and convey, such real and personal property as may be necessary for the transaction of its business . . . It may also accept or make any deed, mortgage, or other investment, . . . may loan money and secure such loans by mortgage, trust deed or pledge, purchase notes, bonds, mortgages, and other evidences of indebtedness, and securities and sell and assign the same, and convert them into cash or into other authorized securities . . . (MINN. STAT. § 78.81).

# PUBLIC SCHOOL RETIREMENT SYSTEM OF THE CITY OF ST. LOUIS (PSRS)

Basic Facts:

- Number of active members: 5,968
- Number of benefit recipients: 2,118
- Total assets: $200 million
- Amount of monthly annuity payroll: $730,000

The Public School Retirement System of the City of St. Louis (PSRS) is a body corporate created under MO. REV. STAT. § 169.420. It serves as the retirement system for all employees of the St. Louis Board of Education (MO. REV. STAT. § 169.430).

An 11-person Board of Trustees administers PERS. Four trustees are appointed by the Board of Education, four are elected by the active members of PSRS (two teachers and two non-teachers), two trustees are retirants (one a former teacher and the other a former non-teacher employee of the Board of Education) and the eleventh member is an investment trustee, elected by a majority vote of the other members of the Board of Trustees, who is neither a teacher nor a public employee (MO. REV. STAT. § 169.450(1)-(4)). All trustees serve staggered four-year terms (MO. REV. STAT. § 169.459.2). Each trustee takes an oath of office that he will diligently and honestly administer the affairs of the Board, and will not knowingly violate or willingly permit to be violated any law applicable to the retirement system (MO. REV. STAT. § 169.450.4).

The trustees choose from among themselves a Chairman, Vice-Chairman, Secretary, and Treasurer (Rules and Regulations, Rule II).[1] The Board holds monthly meetings except in July (Rules and Regulations, Rule I). Day-to-day management of PSRS is handled by an Executive Secretary and a staff of six employees appointed by the Board of Trustees (Rules and Regulations, Rule VIII). The trustees and staff of PSRS are bonded under a $1 million surety bond.

PSRS is audited annually by the accounting firm of W. A. Helms & Company. An actuarial valuation of the Fund and a determination of the necessary contribution level is performed annually by Tillinghast, Nelson & Warren (MO. REV. STAT. § 169.490.3(3)). Additionally, at least once every five years an assessment is made of PSRS' actuarial experience, and adjustments are made in the Board's actuarial assumptions (MO. REV. STAT. § 169.450.14). Legislative oversight is performed by the Joint Committee on Public Employee Retirement (MO. REV. STAT. § 21.550), which is charged with monitoring all state and local government retirement systems, including each system's financial and actuarial status.

PSRS prepares an annual report showing: the fiscal transactions for the preceding year, all salaries and other expenditures incurred in the operation of the system, the cash and securities accumulated by the system, the most recent balance sheet reflecting the financial condition of the system, and an actuarial valuation of its assets and liabilities. Copies of the annual report are distributed to the Board of Education and to all active members (MO. REV. STAT. § 169.450.10).

Each PSRS member receives a summary plan description (SPD) in the form of an information manual. The manual is updated regularly to reflect significant legislative changes. PSRS also provides each member an annual statement of account that includes the member's total credited service to date, accumulated contributions and interest, total compensation, projected annual retirement benefits from both PSRS and Social Security, and total estimated annual retirement benefits. Individual members have the right to appeal decisions concerning benefits by the Board of Trustees to the Circuit Court of St. Louis. PSRS holds periodic meetings and seminars for members anticipating retirement to answer questions about retirement options.

In investing the system's assets, the PSRS Board is governed by the prudent man standard (MO. STAT. ANN. § 169.480). The Board promulgates a written investment policy, that is up-dated periodically, to guide the decisions of the investment trustee and his advisors (Rules and Regulations, Rule XIV, Section 9). The primary objective of PSRS's investment policy is to insure maximum security of principal, consistent with good current income. The trust departments of Mercantile Bank, Centerre Bank, and Boatmen's Bank (the three largest banks in St. Louis) currently manage the greatest part of the PSRS portfolio; selected brokerage firms provide specialized services. The PSRS portfolio is allocated approximately 45 to 55 percent (at cost) to fixed income securities (including residential real estate mortgages and SBA loans), 35 to 45 percent to equities, with a maximum concentration in any one company of 5 percent (at cost), and up to 10 percent to commercial and industrial real estate (Rules and Regulations, Rule XIV, Section 1). Board members receive monthly summaries of investment activities and are given periodic analyses of investment performance prepared by DeMarche Associates. These documents are available for public inspection.

Missouri law requires that all meetings of the Board of Trustees be open to the public (MO. REV. STAT. § 610.010) and that records of all meetings be open to public inspection (MO. REV. STAT. § 169.450.10). Any person may obtain at the PSRS office a copy of the minutes of any meeting of the Board of Trustees (Rules and Regulations, Reg. VII). Additionally, the reports of the independent actuary and certified public accountant for PSRS are available for public inspection.

The trustees and employees of PSRS are subject to the conflict of interest provisions of the Missouri statutes, which prohibit "any direct interest in the gains or profits

[1] The Chairman, Vice-Chairman, and Secretary serve one-year terms, while the Treasurer serves a two-year term (Rules and Regulations, Rule IV). Any officer may, however, be removed for cause by a two-thirds vote of the Board of Trustees (Rules and Regulations, Rule V).

of any investment made by the Board of Trustees"[2] (MO. REV. STAT. § 169.480.5).

[2] The statute also bars a trustee or employee from becoming "an endorser or surety or . . . an obligor for monies loaned by or borrowed from the Board of Trustees" (MO. REV. STAT. § 169.480.5).

Upon complaint or petition of a PSRS member, the Board of Trustees, or the St. Louis Board of Education, the Circuit Court of the City of St. Louis can provide judicial relief against wrongdoing by a PSRS trustee; remedies may include an accounting, restitution of funds, removal from office, and other appropriate relief. (MO. REV. STAT. § 169.450.5).